

Circuit Court for Montgomery County  
Case No. 133111

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2500

September Term, 2018

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JORDAN DANIEL RIGEL

v.

STATE OF MARYLAND

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Berger,  
Arthur,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: June 11, 2019

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Jordan Daniel Rigel, appellant, entered a plea of guilty in the Circuit Court for Montgomery County to unauthorized removal of a motor vehicle belonging to Paul Abel, Jr., a violation of Criminal Law Article § 7-203(a)(2).<sup>1</sup> The court found sufficient factual basis for the plea and convicted Mr. Rigel of that offense. As part of his sentence, the court ordered Mr. Rigel to pay restitution to Mr. Abel in the amount of \$1840, and to pay restitution in the amount of \$1889 to Mr. Abel's mother, Susan Abel.

Mr. Rigel was granted leave to appeal, in which he presents one question for our review:

Is the restitution order illegal to the extent that the trial court ordered restitution for a burglary of which Mr. Rigel was not convicted?

The State concedes that the court erred in ordering restitution for losses that were not a direct result of the offense of which Mr. Rigel was convicted. We agree and shall vacate the order of restitution with instructions to remand to the circuit court for a new restitution hearing.

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<sup>1</sup> Criminal Law §7-203 provides as follows:

- (a) Without the permission of the owner, a person may not take and carry away from the premises or out of the custody of another or use of the other, or the other's agent, or a governmental unit any property, including:
- (1) a vehicle;
  - (2) a motor vehicle;
  - (3) a vessel; or
  - (4) livestock.

## **BACKGROUND**

At the plea hearing, the State proffered that, on November 17, 2017, someone broke into the home of the Abel family and stole property, including laptop computers, rifles, jewelry, and gift cards. Following the break-in, Mr. Rigel posted photos of some of the stolen property on his social media account. On November 22, 2017, four days after the burglary, Mr. Abel's vehicle was stolen, at which time Mr. Abel discovered that his car keys had also been stolen during the burglary. The next day, police stopped Mr. Rigel as he was driving Mr. Abel's vehicle, without Mr. Abel's permission. Based on the State's proffer, the court found Mr. Rigel guilty of the unlawful removal of property, specifically, Mr. Abel's vehicle.

At the sentencing hearing, the State made a request for restitution for the value of property that was missing from inside the vehicle as well as for property that was stolen from inside the Abel's home. Defense counsel objected to the request for restitution, stating that Mr. Rigel did not admit to being involved in the burglary of the Abel home and, therefore, any award of restitution would be limited to the value of items that were missing from Mr. Abel's vehicle.<sup>2</sup> The prosecutor asserted that the proffer of facts supported a theory that Mr. Rigel was responsible, either as a principal or a co-conspirator, for the theft of property from inside the Abel's home. The court agreed with the prosecutor

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<sup>2</sup> According to defense counsel, the value of property missing from Mr. Abel's vehicle represented \$425 of the \$1840 in restitution that the court ordered Mr. Rigel to pay to Mr. Abel.

and ordered Mr. Rigel to pay restitution for property that was missing from inside the home as well as from Mr. Abel’s vehicle.

### DISCUSSION

“[R]estitution may be compelled ordinarily only for the criminal conduct for which the defendant was convicted.” *State v. Stachowski*, 440 Md. 504, 513 (2014).<sup>3</sup> Criminal Procedure Article § 11-603(a), which governs restitution, provides that “[a] court may enter a judgment of restitution that orders a defendant . . . to make restitution in addition to any other penalty for the commission of a crime . . . , if: (1) as a direct result of the crime . . . , property of the victim was stolen, damaged, destroyed, converted, or unlawfully obtained, or its value substantially decreased[.]” We review a trial court’s determination that a loss is a direct result of a crime, as it pertains to an order of restitution, under the de novo standard. *In re G.R.*, \_\_\_ Md. \_\_\_, No. 32, Sept. Term 2018 (filed April 1, 2019), sl. op. at 5.

In *G.R.*, the Court of Appeals reaffirmed that the “direct result” standard requires more than a reasonable connection between a crime and property damage or loss, stating that “importing any tort causation analysis into the direct result standard of CP §11-603(a) would straightforwardly contravene the plain language of the statute.” *Id.*, slip op. at 17. Here, in ordering restitution, the court appeared to employ a tort causation analysis, noting

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<sup>3</sup> A trial court may, however, order restitution for crimes of which the defendant has not been convicted where “the defendant has expressly agreed to pay such restitution as part of a valid plea agreement.” *Silver v. State*, 420 Md. 415, 436-37 (2011). There was no such agreement here.

that there was a “connection” between the burglary and the unauthorized removal of the vehicle, and reasoning that Mr. Rigel’s plea of guilty to unauthorized removal of a motor vehicle “doesn’t insulate him from anything else flowing from that admission.”

Mr. Rigel was convicted only of the unauthorized removal of Mr. Abel’s vehicle. Consequently, any property stolen from the Abel’s home during the burglary was not a “direct result” of the crime for which Mr. Rigel was convicted, and therefore, the court did not have authority to order restitution for property stolen from the home. Accordingly, the order of restitution constitutes an illegal sentence. *See Wiredu v State*, 222 Md. App. 212, 228 (2015) (“[W]hen a sentencing court exceeds the limits of its statutory authority in ordering restitution[,] . . . we will vacate the order as an illegal sentence.” (citations omitted)).

**ORDER OF RESTITUTION VACATED.  
CASE REMANDED TO THE CIRCUIT  
COURT FOR MONTGOMERY COUNTY  
FOR FURTHER PROCEEDINGS NOT  
INCONSISTENT WITH THIS OPINION.  
JUDGMENT OTHERWISE AFFIRMED.  
COSTS TO BE PAID BY MONTGOMERY  
COUNTY.**