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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

In re J.K., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

J.K.,

Defendant and Appellant.

A147328

(Alameda County
Super. Ct. No. C-182392-03)

J.K. (appellant) was adjudged a ward of the court after she admitted the charge of misdemeanor vandalism of a vehicle. She challenges an order requiring her to make restitution to the victim, contending a portion of the amount the victim claimed as restitution was not adequately proven at the restitution hearing. We find no error and affirm.

I. BACKGROUND¹

On April 28, 2015, Oakland police officers responded to a report of juveniles fighting in the area of MacArthur Boulevard and Fruitvale Avenue. Upon arrival, Jessica Rodriguez told the officers she was sitting in the passenger seat of Douglas Moraes's car when she noticed a group of 20 to 30 juveniles fighting. Rodriguez approached the group to determine if her son was involved in the altercation. After she tried unsuccessfully to

¹ Because no contested jurisdictional hearing was held, the underlying facts are taken from the dispositional report.

direct a marked police vehicle to the fight, the group of juveniles began chasing her down Fruitvale Avenue. She entered Moraes's car for protection. As one juvenile ran up to the vehicle threatening to kill Rodriguez, concurrently, appellant ran to the vehicle, also threatening to kill Rodriguez, and then used her fist to break the rear window of the vehicle. Appellant admitted she had punched the window.

A wardship petition was filed alleging appellant, age 13, committed assault by means of force likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(4)), criminal threats (*id.*, § 422), and misdemeanor vandalism (*id.*, § 594, subd. (b)(2)(A)).

On June 4, 2015, appellant admitted the misdemeanor charge of vandalism and the remaining counts were dismissed. Over a month later, the juvenile court adjudged appellant a ward of the court and placed her on formal probation. The court indicated restitution to the owner of the car, Douglas Moraes, would be determined at a later date.

At the subsequent restitution hearing, the probation department recommended appellant pay Moraes \$3,336.24 for damage to his car—\$247.93 for a broken windshield and \$3,088.31 for additional physical damage. Though appellant agreed to the restitution amount of \$247.93, and the court ordered that amount, she disputed the balance of the amount of the recommended restitution, asserting there was no causal connection between the damage to the windshield and the additional alleged damage to the vehicle. The court continued the matter for a contested restitution hearing.

Moraes testified during the contested restitution hearing and explained the basis for his claim of additional damage to the body of his vehicle. On the date of the incident, he testified he parked his car on Fruitvale Avenue. When he was about 35 feet away from the rear of his car, he noticed a large group of juveniles around Fruitvale and MacArthur brawling. Four or five of the juveniles, mostly female, surrounded his car in which Rodriguez was sitting. One of the juveniles pounded on the passenger window and threatened Rodriguez, another jumped on the car, and a third, appellant, broke the rear window of the vehicle. According to Moraes, after appellant put her fist through the window, she stepped back to kick out the driver's side taillight with her foot, but she missed the lens and instead dented the rear left-hand side above the lens. Appellant then

tried unsuccessfully to open up the door where Rodriguez was seated. At this point, “it appeared” to Moraes that appellant “turned around and kicked the side in, that joint where the door meets the front fender—kicked it with the back of her foot, the heal [*sic*].” He did not see appellant do anything else to the car. Moraes did not, however, inspect his car afterward because he “wasn’t in a position or the mood to survey the car at that time.”

Moraes had the rear window repaired the day after the incident, and on June 16, 2015, nearly seven weeks after the incident, obtained an estimate for the additional damage to the vehicle from a body shop in the amount of \$3,088.31. Moraes admitted during the months of May and June, following the incident, he drove his car on the freeway and on surface streets, and left it unattended for periods of time. He also conceded the body shop’s estimate included items other than the additional damage he claimed was caused by appellant.

During the hearing, the court and counsel took a break and went to look at Moraes’s vehicle. Afterwards, the court stated it believed appellant damaged “the rear hatch-back door of the car, in particular to the upper left-hand side of that door just below the window” and “the front left-corner panel that is now separated from the bumper.” The court indicated it was “prepared to award damages for both of those items”; however, it did not know from the estimate presented what the cost would be to repair them. The prosecutor responded that Moraes wanted to obtain a new estimate to “find out the actual cost of those repairs.” The hearing was continued to give Moraes an opportunity to obtain a second estimate.

On the day of the continued restitution hearing, Moraes provided an estimate of \$1,542, for the dent to the back of the car and the broken bracket holding the bumper. Following argument, the court ordered restitution in the amount of \$1,542.

In its ruling, the court found that, based on Moraes’s testimony and the photographs of the car admitted into evidence and examined by the court as well as its personal inspection of the vehicle, the car was damaged in the two areas specified by Moraes. After summing up Moraes’s testimony, the court further indicated, there was “nothing to dispute” Moraes’s testimony with respect to the damage appellant caused to

the vehicle and found his testimony “credible.” In particular, the court noted, “[W]hen it was brought to his attention that the original estimate contained items for which there was no damage, he immediately admitted that. . . . And as soon as it was brought to his attention, he immediately agreed to withdraw that estimate and obtain another estimate for what the Court could see and what I think counsel could see was the obvious damage. [¶] I have no reason to believe that he is lying or that he is trying to inflate the figures in order to get something that he is not entitled to.”

II. DISCUSSION

Appellant contends the juvenile court abused its discretion when it ordered the additional restitution because there was insufficient proof she caused damage to the vehicle beyond damage to the rear windshield.

“The California Constitution gives trial courts broad power to impose restitution, on offenders for losses caused by their criminal conduct.” (*In re Alexander A.* (2011) 192 Cal.App.4th 847, 853.) “A victim’s right to restitution is broadly and liberally construed.” (*Ibid.*) “In proceedings involving minors, the juvenile court is vested with discretion to order restitution consistent with the goals of the juvenile justice system. [Citation.] The goal of the juvenile justice system is to provide minors under the jurisdiction of the court with care, treatment, and guidance that is consistent with their best interests and to hold them accountable for their behavior as appropriate under the circumstances, consistent with the interests of public safety and protection. [Citation.] In enforcing, interpreting and administering the juvenile court law, the trial court also is to consider the safety and protection of the public, the importance of redressing injuries to victims and the best interests of the minor.” (*Ibid.*)

Welfare and Institutions Code “[s]ection 730.6, subdivision (h) directs the court to order restitution ‘of a dollar amount sufficient to fully reimburse the victim or victims for all determined economic losses incurred as the result of the minor’s conduct’ unless it finds compelling and extraordinary reasons for not doing so.” (*In re Alexander A., supra*, 192 Cal.App.4th at p. 853.) “A restitution order is intended to compensate the victim for [his or her] actual loss and is not intended to provide the victim with a windfall.” (*People*

v. Chappelone (2010) 183 Cal.App.4th 1159, 1172.) “[T]he court in making a restitution order is not required to determine the ‘exact amount of loss,’ so long as it employs ‘a rational method that could reasonably be said to make the victim whole,’ and is not ‘arbitrary and capricious.’ ” (*In re K.F.* (2009) 173 Cal.App.4th 655, 666.)

A minor is entitled to a restitution hearing “to dispute the determination of the amount of restitution.” (Welf. & Inst. Code, § 730.6, subd. (h)(2).) At a hearing, the People may make a prima facie case for restitution based on a victim’s testimony or other claim or statement of the victim’s economic loss. (*People v. Chappelone, supra*, 183 Cal.App.4th at p. 1172.) Once the prima facie showing has been made, the burden shifts to the defendant to demonstrate that the amount of the loss is other than that claimed by the victim. (*Ibid.*)

We review a restitution order for abuse of discretion. (*People v. Giordano* (2007) 42 Cal.4th 644, 663.) “To facilitate appellate review of the trial court’s restitution order, the trial court must take care to make a record of the restitution hearing, analyze the evidence presented, and make a clear statement of the calculation method used and how that method justifies the amount ordered.” (*Id.* at p. 664.)

Here, we conclude there is a factual and rational basis for the juvenile court’s restitution order. The court heard and evaluated the testimony of Moraes, viewed photographs of the damage, and inspected the vehicle itself. Estimates of the damage considered by the court included the reduced estimate of the two additional damaged sections of the vehicle for which Moraes was seeking restitution. And significantly, the court found Moraes to be a credible witness with “no reason to believe that he is lying or that he is trying to inflate the figures in order to get something that he is not entitled to.” In fact, Moraes offered an incentive to appellant to reduce the restitution award. He offered to reduce it by \$100 for each successive report card which improved on the previous report card or stayed the same, up to \$500.

Appellant, however, maintains the evidence falls short of supporting the court’s award of restitution. She argues “[t]here was insufficient proof connecting [her] to those additional damages.” In support, she points out the police report did not note any

additional damage, nor did the photos taken of the vehicle after the incident. When Moraes spoke with a deputy district attorney in May 2015, appellant argues he did not inform the district attorney of the other damage to the car.

We find these arguments unavailing. As to the police report, Moraes acknowledged he did not initially report all of the damage to the police officer, but explained he “wasn’t in a position or the mood to survey the car at that time. I just wanted out of there.” We have reviewed the photos of the vehicle in the record, and find them inconclusive. We also reject appellant’s argument concerning Moraes’s conversation with the district attorney. The record is not the model of clarity on this point. Nevertheless, contrary to appellant’s contention, at the restitution hearing, Moraes did not remember having a conversation with Deputy District Attorney Layne. When questioned further, he testified he had not noticed the “latch” on the passenger side had been broken until he got the estimate. While appellant’s view of the evidence is different, we cannot reweigh the evidence on appeal. (*People v. Lindberg* (2008) 45 Cal.4th 1, 27.) The juvenile court found the evidence credible and rejected appellant’s argument to the contrary, and we will not substitute our evaluation regarding Moraes’s credibility for the juvenile court’s assessment. (*People v. Koontz* (2002) 27 Cal.4th 1041, 1078.)

III. DISPOSITION

The restitution order is affirmed.

MARGULIES, Acting P.J.

We concur:

DONDERO, J.

BANKE, J.

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