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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re Y.S., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Appellant,

v.

Y.S.,

Defendant and Respondent.

E058784

(Super.Ct.No. INJ1200069)

OPINION

APPEAL from the Superior Court of Riverside County. Lawrence P. Best,
Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Paul E. Zellerbach, District Attorney, and Natalie M. Pitre, Deputy District
Attorney, for Plaintiff and Appellant.

Robert V. Vallandingham, Jr., under appointment by the Court of Appeal, for
Defendant and Respondent.

A juvenile wardship petition was filed in Riverside County, alleging that defendant and appellant Y.S. (minor) committed the offenses of driving with willful disregard for the safety of others while fleeing a peace officer (Veh. Code, § 2800.2, paragraph 1), unlawfully driving or taking a vehicle without the owner's consent (Veh. Code, § 10851, subd. (a), paragraph 2), and receiving a stolen vehicle (Pen. Code, § 496d, subd. (a), paragraph 3). Minor admitted the allegations in paragraphs 1 and 2, and the juvenile court dismissed paragraph 3 upon a motion by the People. The court found the admitted allegations true, declared minor a ward, and released her to the custody of her mother under specified terms of probation. The court subsequently held a restitution hearing and determined that no amount of victim restitution would be ordered.

The People appeal the court's determination that no victim restitution be ordered. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND¹

On October 3, 2012, a police officer was alerted by the LoJack signal of a stolen vehicle. He tried to initiate a traffic stop on the car, which was being driven by minor. There were four other minors in the car. Minor sped away from the officer and drove through residential areas at a speed of 40 miles per hour. Minor failed to stop at a stop sign and drove over a dip, which caused the car to "lift from the ground and swerve from

¹ The factual background is taken from the detention hearing report, since minor admitted the allegations.

lane to lane.” She stopped the car and climbed into the backseat. The police arrested her and returned the car to its owner (the victim).

After declaring minor a ward and placing her on probation, the court held a hearing to determine the amount of victim restitution. The probation department filed a memorandum with the court recommending that restitution be set in the amount of \$1,285.71. This amount was based on a repair estimate that the victim had obtained from a Honda dealership service department. At the hearing, the prosecutor initially requested restitution to be set at the repair estimate amount. The court stated that the repair estimate listed a “lock assembly and steering, front brake pad and rotors, rear brake pads or shoes, hood release cable, and some kind of clips.” The court then asked the prosecutor to state how those costs related to the allegations that were found true. The prosecutor replied that the statement submitted by the victim covered the repair costs to the damage that was caused by minor. The prosecutor said the victim was present, so the court asked him to testify. The victim testified that his 2000 Honda Civic was taken from him in October 2012. When asked what condition it was in before it was stolen, he said it was “operable.” The only damage he knew of, prior to the car being stolen, was that there was damage to the tail lights. The victim testified that, when he got his car back, he only noticed some problems with the brakes. He said he did not have any issues with the brakes before the car was stolen. When he brought the car to the Honda dealership for a repair estimate, the Honda employee found damage to the interior, specifically to the ignition. The victim testified, “. . . the key for the key ignition, it was pretty much—I

don't know what's in there, but they kind of stick [*sic*] something into it so there is no need for keys." The court asked the victim if there was something wrong with the hood release cable, and the victim said he did not remember. The court asked about a fender clip, and the victim said he did not really know what that was. The court then asked how long his car was missing. The victim said, "I think only hours."

On cross-examination, the victim testified that, although the repair estimate was done, he never actually repaired the car. He said that prior to the car being stolen, he was planning on selling the car. He had since sold the car.

On redirect examination, the prosecutor asked the victim if he recalled how much he sold the car for, and the victim said, "Not really. 1200." He added, "That's the price [the buyer] gave me." The court asked the victim how much he was asking for the car when it was stolen, and he said, "Around two grand." When the court asked why he sold it for \$1,200, when he wanted \$2,000, the victim said, "Because it's pretty much damaged."

On recross-examination, minor's counsel asked the victim how he determined the \$2,000 asking price, and the victim said, "Well, it's just my own price." When asked if it was a Kelley Blue Book estimate, the victim said, "Yeah, kind of. Well, I guess—well, I really checked the Kelley Blue Book, and it's like around—I don't know. I can't really recall, but somewhere like \$2,000." When questioned more about the car and its price, he said, "Well, it was operable. I'm not sure. I think it—I'm not really sure. I can't

really recall.” When asked if he knew how the buyer determined he wanted to pay \$1,200 for the car, the victim said he did not know.

Minor’s counsel then reported to the court that the Public Defender investigator talked to Marcos Hernandez, the Honda employee who gave the repair estimate. Hernandez confirmed that it was just an estimate, and said that “the brake pads and the brake work was [*sic*] simply wear and tear, normal wear and tear.” He said that the brakes would not have been damaged by several hours of driving. The court then asked the prosecutor how anyone could show that the victim suffered any loss. The prosecutor then stated that she would not “necessarily go with the estimate that was prepared by Honda,” and argued that the correct restitution figure was the difference between the price the victim was seeking to sell his car for and the price he ultimately sold it for. The court stated that it thought the victim’s testimony was “vague on the original price and the price he accepted.” The court stated that it was not convinced. It thus concluded, “At this point restitution will be set at zero.”

ANALYSIS

The Court Properly Determined That No Victim Restitution Was Warranted

The People argue that the court’s restitution order in the amount of “\$0” was “not factually or rationally related to compensating the victim for his economic loss.” The People claim that the victim suffered some economic loss since his car was damaged by minor’s actions of stealing the car and evading the police. The People first point to the repair estimate by the Honda dealership, and then assert that the victim had to sell his car

at a discounted price, as a result of the damage. The People further contend that the court declined to order restitution without stating an extraordinary and compelling reason on the record. The People conclude that the matter should be remanded for another evidentiary restitution hearing. We disagree.

Welfare and Institutions Code² section 730.6 “governs restitution in cases where a minor is adjudicated a ward of the court pursuant to section 602.” (*In re Johnny M.* (2002) 100 Cal.App.4th 1128, 1131.) Section 730.6, subdivision (a)(1), provides that “[i]t is the intent of the Legislature that a victim of conduct for which a minor is found to be a person described in Section 602 who incurs any economic loss *as a result of the minor’s conduct* shall receive restitution directly from that minor.” (Italics added.) The restitution order “shall be imposed in the amount of the losses, *as determined.*” (§ 730.6, subd. (h), italics added.) “The court shall order full restitution unless it finds compelling and extraordinary reasons for not doing so, and states them on the record.” (*Ibid.*)

“The standard of review of a restitution order is abuse of discretion. ‘A victim’s restitution right is to be broadly and liberally construed.’ [Citation.] ““When there is a factual and rational basis for the amount of restitution ordered by the trial court, no abuse of discretion will be found by the reviewing court.” [Citations.]” (*In re Johnny M.*, *supra*, 100 Cal.App.4th at p. 1132.)

² All further statutory references will be to the Welfare and Institutions Code, unless otherwise noted.

We see no abuse of discretion here. The court heard testimony from the victim, who said that his car was taken for only a few hours. He claimed that the damage sustained by the car was to the ignition and the brakes. Notably, the Honda repair estimate included other items such as the hood release cable and some type of clips. However, the victim testified that he did not remember if anything was wrong with the hood release cable before the car was stolen, and he did not know what a fender clip was. Moreover, the Honda employee that did the repair estimate stated that the brakes would not have been damaged by a few hours of driving. In other words, the damage to the brakes did not occur when minor had the car. Rather, the brake damage was from normal wear and tear. The repair estimate appears to provide an estimate for *everything* that was wrong with the 13-year-old car, not just for damage that may have been sustained during the brief period of time that minor had it.

In any event, although the prosecutor initially asked that restitution be set at \$1,285.71, the amount of the repair estimate, she changed that request after the victim testified. When the court asked the prosecutor what the correct restitution order figure was, she argued that it was the difference between the price the victim sought to sell his car for (\$2,000) and the price he actually sold it for (\$1,200). She argued that the victim was only able to get \$1,200 for the car because of the damage to the car caused by minor. However, the only damage the victim claimed after the car was returned to him was to the ignition and the brakes. As discussed *ante*, the damage to the brakes was from normal wear and tear. As to the ignition, although the repair estimate did include “a lock

assembly and steering,” it was not established how much that particular item cost.

Moreover, the victim never had the car repaired and, thus, never paid for any damage to the ignition.

Furthermore, as the court pointed out, the victim’s claims about the selling price he asked for the car and the price he sold the car for were vague. When questioned about how he determined the asking price of \$2,000, the victim said, “It’s just my own price.” When asked if it was based on the car’s Kelley Blue Book value, the victim said, “Yeah, kind of.” He then admitted that he could not recall if that was the Blue Book value. He similarly could not definitively recall how much he sold the car for. When asked if he could recall the price, he said, “Not really.” Then he said he was given \$1,200. When asked how he came up with that price, the victim simply said that that was the price the buyer offered him. The evidence demonstrated that the victim arbitrarily set the selling price of the car and then simply sold the car at the price offered by the buyer. There was no basis for the court to conclude that the difference between these two random amounts constituted an economic loss incurred by the victim as a result of minor’s conduct.

As to the People’s claim that the court did not state “an extraordinary and compelling reason on the record” for failing to order restitution, the record shows otherwise. At the hearing, the prosecutor argued that the restitution amount was the difference between the asking price of the car and the price the victim sold the car for. The court then declined to order restitution, stating: “I think [the victim’s] testimony was kind of vague on the original price and the price he accepted. He may have suggested

that. I'm not convinced.” The court essentially concluded that it could not ascertain the amount of loss to the victim, based on the evidence presented.

In sum, the evidence did not establish any specific amount of economic loss suffered by the victim as a result of minor's conduct. Therefore, we cannot say that the court abused its discretion in declining to order restitution.

DISPOSITION

The order is affirmed.

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HOLLENHORST
J.

We concur:

RAMIREZ
P. J.

CODRINGTON
J.