

Circuit Court for Wicomico County
Case No. 22-J-16-00053

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1394

September Term, 2016

IN RE: A.S.

Woodward, C.J.,
Graeff,
Moylan, Charles E. Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 11, 2017

*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.

In the Circuit Court for Wicomico County, sitting as the juvenile court, A.S., appellant, was found to be involved in the delinquent act of second-degree assault. The court ordered that A.S. be committed to non-community residential placement, and also ordered that A.S. pay restitution to the victim of the assault in the amount of \$838.50, which represented bills for medical expenses incurred as a direct result of the assault.

On appeal, A.S. contends that the juvenile court erred in ordering restitution. In support of his claim, A.S. maintains that (1) the victim was not entitled to restitution because, according to A.S., the victim “instigated the confrontation” and “was a willing participant in the delinquent activity”; and (2) the amount of restitution was “unreasonable” due to the fact that the victim did not have health insurance that presumably would have covered a portion of his medical bills, lowering his out-of-pocket expenses. We disagree and shall affirm the judgment.

“[J]uvenile courts have broad discretion to order restitution, either against the juvenile himself, a parent, or both.” *In re Cody H.*, 452 Md. 169, 183 (2017) (citations and internal quotation marks omitted). A juvenile court is authorized, under Md. Code (2001, 2008 Repl. Vol.), Criminal Procedure Article (“CP”), § 11-603(a)(2)(i), to “enter a judgment of restitution that orders a defendant or child respondent to make restitution in addition to any other penalty for the commission of a crime or delinquent act, if . . . as a direct result of the crime or delinquent act, the victim suffered actual medical . . . expenses or losses.” The juvenile court’s decision to order restitution “will not be overturned on appeal except on a clear showing of abuse of discretion, that is, discretion manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons.” *In re John M.*,

129 Md. App. 165, 175 (1999) (citation and internal quotation marks omitted), *superseded by statute on other grounds*. We find no abuse of discretion here.

According to the victim’s testimony, he was standing in his yard when he saw A.S., whom he did not know, riding a bike from the area between the victim’s house and the house next door, and out into the street. The victim thought that the bicycle was his, and asked A.S. whose bike it was.¹ A.S. claimed that the bike belonged to him, but the victim did not believe him. The victim said “stop” and “kind of jogged” into the street, “because [A.S.] was riding away” and the victim was “determined to keep the bike from being stolen.” A.S. then “jumped off the bike” and “charged” the victim, who was not moving toward A.S., but had “stepped back” to “brace [him]self.” A.S. collided with the “stationary” victim, who then fell backwards, dropping the mobile phone that he was holding. The victim “began trying to struggle for leverage and just not to get hit.” During the struggle, A.S. struck the victim in the eye. Eventually the physical confrontation ended, and A.S. grabbed the victim’s phone and ran off without the bike. No other eyewitness to the assault was called as a witness at the adjudicatory hearing, and A.S. did not testify.

We see nothing in the record of the adjudicatory hearing to support A.S.’s claim that the victim instigated the assault, or that he was a willing participant.² The record

¹ The bike turned out to be one belonging to the victim’s neighbor, who was a friend of A.S.

² See *In re Tyrell A.*, 442 Md. 354, 383 (2015) (holding that restitution may not be ordered “in favor of a person who is a voluntary and willing participant in the crime or delinquent activity that caused his or her injury, absent exceptional circumstances.”)

demonstrates only that the victim verbally demanded that A.S. stop from riding away on the bicycle. Rather than continuing to ride away from the victim, however, A.S. got off the bike and assaulted the victim, who acted only defensively.

Nor do we find merit in A.S.’s claim that the restitution amount was unreasonable because the victim was not covered by medical insurance. CP § 11-603 authorizes the court to order restitution for “actual medical” expenses or losses incurred by the victim as a direct result of the delinquent act. The statute does not define “actual medical” expenses. The statute further provides that a victim is presumed to have a right of restitution if the victim or the State requests restitution and the court is presented with competent evidence that the victim incurred medical expenses.³ CP § 11-603(b). There is nothing in the statute that suggests that the General Assembly intended to limit restitution for a victim’s actual medical expenses if the victim did not have medical insurance. And, as the Court of Appeals recently stated, “[a] court may not add or delete words to make a statute reflect an intent not evidenced in that language[.]” *In re: Cody*, 432 Md. at 185 (holding that the provision in CP § 11-603 authorizing a court to order restitution for “loss of earnings” incurred as a direct result of a delinquent act did not limit restitution for future loss of earnings, in the absence of statutory language evidencing such legislative intent.)

**JUDGMENT OF THE CIRCUIT COURT
FOR WICOMICO COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**

³ A.S. does not contend that the evidence of the medical expenses was not competent.