

Circuit Court for Anne Arundel County
Case No. C-02-CR-17-2815

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2248

September Term, 2018

LOUIS EDWARD WINDSOR, JR.

v.

STATE OF MARYLAND

Nazarian,
Wells,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 12, 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.

A jury in the Circuit Court for Anne Arundel County convicted Louis Edward Windsor, appellant, of theft of property with a value of between \$1,000 and \$10,000. The court imposed a sentence of four years' incarceration, with all but 18 months suspended, in favor of three years of probation. As a condition of his probation, the court ordered Mr. Windsor to pay restitution to Goodwill Industries, the victim of the theft, in the amount of \$1,600. In addition, the court ordered Mr. Windsor to pay \$700 in restitution to the State's Attorney's Office, representing costs incurred by the State to fly one of the State's witnesses from California to Maryland for trial.

On appeal, Mr. Windsor contends that the trial court erred in ordering him to pay restitution to the State's Attorney's Office. The State agrees, as do we.

“Generally, an appellate court reviews a circuit court's order of restitution for abuse of discretion.” *In re: G.R.*, 463 Md. 207, 213 (2019). “However, where a circuit court's order involves an interpretation and application of Maryland statutory and case law[,] we review its decision de novo.” *Id.* (citation and internal quotation marks omitted).

Criminal Procedure Article § 11-603(a) provides that, in addition to any other penalty imposed for the commission of a crime, a court may order a defendant to make restitution if:

- (1) as a direct result of the crime or delinquent act, property of the victim was stolen, damaged, destroyed, converted, or unlawfully obtained, or its value substantially decreased;
- (2) as a direct result of the crime or delinquent act, the victim suffered;
 - (i) actual medical, dental, hospital, counseling, funeral, or burial expenses or losses;
 - (ii) direct out-of-pocket loss;
 - (iii) loss of earnings; or

- (iv) expenses incurred with rehabilitation;
- (3) the victim incurred medical expenses that were paid by the Maryland Department of Health of any other governmental unit;
- (4) a governmental unit incurred expenses in removing, towing, transporting, preserving, storing, selling, or destroying an abandoned vehicle as defined in § 25-201 of the Transportation Article;
- (5) the Criminal Injuries Compensation Board paid benefits to a victim; or
- (6) the Maryland Department of Health or other governmental unit paid expenses incurred under Subtitle 1, Part II of this title.¹

As Mr. Windsor asserts, and as the State agrees, none of the above provisions authorize the court to order restitution to a party for a trial witness’s transportation costs. Accordingly, we conclude that the court exceeded its authority in ordering Mr. Windsor to pay restitution to the State’s Attorney’s Office.

“[W]hen a sentencing court exceeds the limits of statutory authority in ordering restitution[,] . . . we will vacate the order as an illegal sentence.” *Wiredu v. State*, 222 Md. App. 212, 228 (2015) (citations omitted). Accordingly, we vacate the portion of the circuit court’s restitution order requiring Mr. Windsor to pay \$700 to the State’s Attorney’s Office and remand for entry of a corrected restitution order.

ORDER OF RESTITUTION VACATED IN PART AND REMANDED FOR FURTHER PROCEEDINGS NOT INCONSISTENT WITH THIS OPINION. JUDGMENT OTHERWISE AFFIRMED. COSTS TO BE PAID BY ANNE ARUNDEL COUNTY.

¹ Title 11, Subtitle 1, Part II of the Criminal Procedure Article relates to court-ordered HIV and hepatitis C testing.