

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,
PENNSYLVANIA**

**IN THE INTEREST OF
YJO,**

A Juvenile

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No. JV-271-2019

OPINION AND ORDER

AND NOW, this 5th day of **February, 2020**, a hearing was held on January 9, 2020, in regard to an outstanding restitution claim. On November 21, 2019, YJO made an admission to one count of simple assault, a misdemeanor in the 2nd degree and was adjudicated delinquent. YJO admitted to causing bodily injury to AS on September 3, 2019. At the time of the adjudication, a further hearing was scheduled for January 9, 2020, to determine what restitution was owed to the victim.

At the time of the restitution hearing, KF, AS's mother, testified that her daughter was required to seek medical attention after she was injured on September 3, 2019, by the juvenile. She was treated at the Muncy Valley Hospital where she suffered from whiplash and a sprained wrist. At the time that the victim was treated at the Muncy Valley Hospital Emergency Room, her family did not have medical insurance which covered her. The family lost their insurance through the state in October, 2018, due to the fact that the family's income was too high. At that time, the family could not afford the cost of private insurance. The family was denied medical insurance from the state for the victim due to the family income level being too high.

The Commonwealth admitted three exhibits to evidence the outstanding medical expenses incurred by the victim. Commonwealth 1 is an emergency room bill from UPMC Muncy Valley totaling \$5,224.00. It is noted that the total of this bill was reduced by approximately \$1,300.00 by UPMC due to the fact that the parties are not insurance. Commonwealth 2 is a bill from the emergency room doctor totaling \$1,536.00. Commonwealth 3 is a bill for imaging from UPMC totaling \$494.00. The total medical expenses incurred by the victim and her family total \$7,254.00.

Restitution is permitted if it is determined to be consistent with the protection of the public interest and best suited to the child's treatment, supervision, rehabilitation and welfare. 42 Pa.C.S. §6352(a). The inclusion of restitution shall be "appropriate to the individual circumstance of the child's case" and "provide balanced attention to the protection of the community, the imposition of accountability for offenses committed, and the development of competencies to enable the child to become a responsible and productive member of society". *Id.* The Juvenile Court must consider four factors before imposing restitution: (1) the amount of loss suffered by the victim; (2) the fact that the juvenile's actions caused the injury; (3) the amount awarded does not exceed the juvenile's ability to pay; and (4) the type of payment that will best serve the needs of the victim and the capabilities of the juvenile. **In Re: Interest of Dublinsky**, 695 A.2d 827, 829 Pa. Super. 1997. It is important to note that an order of restitution is not an award of damages. The true purpose/reason for imposition is "the rehabilitative goal it serves by impressing upon the offender, the loss he has caused and his responsibility to repair the loss to the extent he is able to do so. **Commonwealth v. B.D.G.**, 959 A.2d 362, 371 Pa. Super. 2008.

In determining the correct amount of restitution, the Court must apply a “but for” analysis, in which the juvenile will be liable for restitution for all damages which would not have occurred but for his/her criminal conduct. Dublinsky, 695 A.2d at 830. Any determination of restitution may be mitigated by the requirement that a Court determine a juvenile’s ability to pay said restitution. Pursuant to 42 Pa.C.S.A. §6352(a)(5), the Court must consider the earning capacity of the juvenile. In determining this issue, the following factors are relevant: “the juvenile’s mental ability, maturity and education, work history-if any, the likelihood of future employment and the extent to which he or she can reasonably meet a restitution obligation, the impact of a restitution award on his or her ability to acquire higher education, thus increase earning capacity, and the present ability to make restitution. Dublinsky, 695 A.2d at 830.

In the case before the Court, the amount of loss that has been suffered by the victim totals \$7,254.00 which are the total outstanding medical bills that have been incurred. There is no dispute that the actions of the juvenile caused the injuries to the victim and that but for her actions, the victim would not have incurred the medical expenses. The issue before this Court for determination is whether or not the amount of restitution awarded by this Court exceeds the juvenile ability to pay and what type of payment will be serve the needs of the victim taking into consideration the capabilities of the juvenile.

The juvenile, YJO, is currently 15 years of age. She will turn 16 on May 12, 2020. YJO has no employment history. YJO has indicated, and it is not necessarily disputed, that once she turns 16 she will probably only be able to earn minimum wage. As she is a high school student, she will only be allowed to work part-time hours. In

regard to her current obligations, the Juvenile participates in the Justice Works VIP Program three times per week for up to six hours and undergoes mental health counseling. She has a history of PTSD, conduct disorder, aggressive disorder, and impulse control disorder. She stated that she has no ability to pay anything at this point in time.

It is clear to the Court that the juvenile has very little ability to pay at this point in time in light of her age. She is most likely unable to obtain any type of part-time employment until she turns 16 years of age. She does, however, have the ability to complete community service and thus earn payment towards the restitution through community service hours and payment from the Juvenile Restitution Fund. The total outstanding restitution claim in this matter exceeds \$7,000.00. It is clear that the victim is out of pocket for the entire amount and that the full needs of the victim would be for the restitution to be paid in full and make her family whole. The Court, however, must weigh the need of the victim against the capabilities of a 15 year old juvenile to pay in excess of \$7,000.00 in restitution. In order to impose a sufficient level of accountability to the juvenile and to serve the needs of the victim, the Court holds that the juvenile shall be responsible for the majority of the restitution that is claimed in this case but not necessarily the full amount.

The Court hereby awards \$5,000.00 in restitution to the victim's family towards the total outstanding medical fees incurred in this case. The amount of \$2,500.00 of the restitution shall immediately be paid from the Juvenile Probation Restitution Fund to KF, the victim's mother. YJO shall complete a total of 345 hours of community service to compensate for the amount that is being paid from the Restitution Fund. YJO shall

perform a minimum of ten hours of community service per week until such time as the 345 hours are completed. YJO may complete the community service through the Justice Works Rapid Response Program, or any other type of community service or a combination of both. The Court notes that at the time of the hearing, the Court advised Juvenile Probation that the Court would, in its order, be requiring the juvenile to complete community service towards an amount to be released from the Restitution Fund. It is the Court's understanding that the community service was going to commence immediately. Any community service that was completed by the juvenile from the date of the hearing on January 9, 2020, to the present shall be credited towards the 345 hours that the Court is hereby ordering. YJO shall also directly owe the sum of \$2,500.00 in restitution to be paid to KF. Upon obtaining employment, YJO shall pay ½ of her net pay each paycheck towards her restitution obligation. As the juvenile has not been ordered to pay the full amount of restitution, the victim shall have the right to pursue the difference from any victim compensation fund or other program that may be available.

By The Court,

Joy Reynolds McCoy, Judge

JRM/jrr