

Juvenile Law Case Summaries

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Juvenile court did not err in ordering restitution for decrease in value of car when child adjudicated for unauthorized use of motor vehicle [In re. R.M.Z.] (01-2-19).

On April 24, 2001, the San Antonio Court of Appeals held that the juvenile court was empowered to order restitution for the decrease in value of an automobile stolen when the juvenile was adjudicated merely of unauthorized use. The Court of Appeals reasoned that the unauthorized use was the motivation for the alteration in the vehicle that diminished its value.

¶ 01-2-19. In the Matter of R.M.Z., UNPUBLISHED, No. 04-00-00465-CV, 2001 WL 417302, 2001 Tex.App.Lexis ____ (Tex.App.—San Antonio 4/25/01)[Texas Juvenile Law (5th Edition 2000)].

Facts: R.M.Z. was adjudicated before a jury for the unauthorized use of a motor vehicle. The jury found him guilty of engaging in delinquent conduct. The judge ordered him to be placed in the custody of the Texas Youth Commission. The judge also ordered restitution to be paid in the amount of \$3,200.00. R.M.Z. appeals claiming the evidence was factually insufficient to order restitution.

Detectives Dustin and Gonzales were responding to an anonymous tip about stripped vehicles and parts when they spotted one stripped vehicle next to a primer red vehicle [FN2] and some parts. A police helicopter radioed that two men were getting into the red vehicle and driving off. The two detectives stopped the vehicle because it had an expired registration sticker and no state inspection sticker. The driver, R.M.Z., volunteered that he had been working on the car and had just gotten it running. R.M.Z. told the officers, "... this has been my car for a while." The detectives discovered the VIN (vehicle identification number) had been attached incorrectly; it was later determined to be that of another vehicle's. The license plates were also registered to another vehicle. The detectives determined that the car had been reported stolen three days before. R.M.Z. was arrested and charged with theft of a motor vehicle and unauthorized use of a motor vehicle. The State chose to proceed solely on the unauthorized use charge. A jury found that R.M.Z. engaged in delinquent conduct. The trial court placed him in the custody of the Texas Youth Commission and ordered restitution in the amount of \$3,200.00. The amount of \$3,200.00 was determined by the owner's testimony that he could have sold the car for \$4,000.00 before the alterations and damage and that he sold it for \$800.00 after it was recovered. R.M.Z. appeals the order of restitution.

FN2. The primer coat is the base undercoat of paint applied before the final coat.

Held: Affirmed.

Opinion Text: SUFFICIENCY OF THE EVIDENCE

R.M.Z. argues that the damage to the automobile, for which he was assessed restitution, could not have naturally flowed from the offense of unauthorized use of a motor vehicle under the facts of this case. He asserts that since he was not charged with the theft of the vehicle, he cannot be assessed restitution for damages stemming from the theft. R.M.Z. claims that there is insufficient evidence that the changes or damages to the car resulted from any of his acts or his driving the car without permission.

Standard of Review

In a factual sufficiency review, we must view all the evidence without the prism of "in the light most favorable to the

prosecution" and set aside the verdict only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. *Clewis v. State*, 922 S.W.2d 126, 129 (Tex.Crim.App.1996). A factual sufficiency review must be appropriately deferential. See *Jones v. State*, 944 S.W.2d 642, 648 (Tex.Crim.App.1996). The appellate court's evaluation cannot substantially intrude upon the role of the trier of fact as the sole judge of the weight and credibility of witness testimony. See *id.* A determination that the evidence is factually insufficient is proper only when the verdict is "manifestly unjust," "shocks the conscience," or "clearly demonstrates bias." *Id.*

Restitution

Juvenile proceedings are "quasi-criminal" in nature, and therefore, because of the context in which the juvenile court may order restitution, the rules of restitution in criminal cases apply to juvenile proceedings. In *re J.R.*, 907 S.W.2d 107, 109 (Tex.App.--Austin 1995, no writ). We review challenges to restitution orders under an abuse of discretion standard. *Cartwright v. State*, 605 S.W.2d 287, 288-89 (Tex.Crim.App.1980). The court abuses its discretion when it acts in an arbitrary or unreasonable manner. *Montgomery v. State*, 810 S.W.2d 372, 380 (Tex.Crim.App.1990). The court of criminal appeals recognizes three limits on the amount of restitution that a trial court can order. See *Campbell v. State*, 5 S.W.3d 693, 696-97 (Tex.Crim.App.1999). First, the amount must be just, and it must be supported by a factual basis within the loss of the victim. *Id.* Second, the restitution ordered must be for the offense for which the defendant is criminally responsible. *Id.* Third, restitution is proper only for the victim or victims of the offense with which the offender is charged. *Id.* A trial court's failure to abide by these guiding rules is an abuse of discretion.

The Texas Family Code provides that a juvenile court may order a child to make full or partial restitution to the victim of an offense when the child has been found to have engaged in delinquent conduct arising from the commission of an offense in which property damage or personal injury occurred. Tex.Fam.Code Ann. § 54.041(b) (Vernon Supp.2001). The unauthorized use of a vehicle occurs when a person "intentionally or knowingly operates another's boat, airplane, or motor-propelled vehicle without the effective consent of the owner." Tex.Pen.Code Ann. § 31.07 (Vernon 1994). R.M.Z. argues that the unauthorized use of a vehicle for which he was adjudicated is not an offense in which the property damage could have occurred, citing to *In the Matter of D.S.*, 921 S.W.2d 860, 861 (Tex.App.--San Antonio 1996, no writ). The State counters that the damages to the vehicle are those that would naturally flow from the offense of unauthorized use and cites to *In the Matter of M.S.*, 985 S.W.2d 278, 280 (Tex.App.--Corpus Christi 1999, no pet.).

In the Matter of M.S. addressed damages culminating from the unauthorized use of a vehicle and the resulting wreck. 985 S.W.2d at 280. The court looked to the Family Code's definition of victim which now reads: "[v]ictim means a person who as the result of the delinquent conduct of a child suffers a pecuniary loss or personal injury or harm." Tex.Fam.Code Ann. § 57.001(3) (Vernon 1999). The court found the owner of the vehicle was the undisputed victim of the damage caused by the unauthorized use of the vehicle and awarded restitution. *In the Matter of M.S.*, 985 S.W.2d at 280.

R.M.Z. contends he did not wreck the car as did M.S. He maintains since it was not proven beyond a reasonable doubt that he stole the car, he cannot be ordered to pay restitution for damages as a result of the theft. R.M.Z. claims that like *In the Matter of D.S.*, he was adjudicated for a lesser offense that will not support an order of restitution under the facts of his case. We disagree.

The unauthorized use of the vehicle would not have occurred but for the alterations and damage to the car. R.M.Z.'s actions caused the alterations and damage to the car that enabled him to operate the vehicle without the owner's consent. There is an essential connection between the two. See *Lerma v. State*, 758 S.W.2d 383, 384 (Tex.App.--Austin 1988, no pet.) (finding a real and essential connection between the injuries suffered by the accident victim and appellant's failure to stop and render aid, thus supporting an order of restitution). R.M.Z.'s own voluntary statement to the detectives upon being stopped confirmed he had the car for a while. Since it had been stolen three days before, the evidence was sufficient to determine R.M.Z. had the car during that time. The car was parked next to a matching car which had been stripped of parts. The evidence supports the determination that to use the vehicle for which he had no key, R.M.Z. damaged the steering column and key entry. He also attempted to conceal the real identity of the car by altering the vehicle identification number and license plates. In the process of making various alterations in order to operate the vehicle without consent, R.M.Z. caused other damage to the car which resulted in the overall loss. There was no dispute as to the amount of damages and the loss in value to the property as a result of the unauthorized use. The pecuniary loss suffered by the owner of the car was a foreseeable consequence of R.M.Z.'s offense of an unauthorized use of a vehicle. See *In the Matter of D.S.*, 921 S.W.2d at 861. Therefore, we hold there has been no abuse of discretion by the trial court and affirm the order of restitution. Juvenile court did not err in ordering restitution for decrease in value of car when child adjudicated for unauthorized use of motor vehicle [*In re. R.M.Z.*] (01-2-19).

On April 24, 2001, the San Antonio Court of Appeals held that the juvenile court was empowered to order restitution for the decrease in value of an automobile stolen when the juvenile was adjudicated merely of unauthorized use. The Court of Appeals reasoned that the unauthorized use was the motivation for the alteration in the vehicle that diminished its value.

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