UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2599

September Term, 2015

IN RE: AARON C.

Meredith,
Leahy,
Beachley,

JJ.

Opinion by Beachley, J.

Filed: October 28, 2016

The Circuit Court for Prince George's County, sitting as the juvenile court, adjudicated appellant, Aaron C., involved in attempted robbery and second-degree assault. Appellant was committed to the custody of the Department of Juvenile Services for placement and ordered to pay $1,006 in restitution. In this appeal, appellant presents the following questions for our review:

1. Did the juvenile court err in denying appellant's motion to dismiss on speedy trial grounds?

2. Did the juvenile court err in ordering appellant to pay $1,006 in restitution without first ensuring that he had the ability to pay that amount?

We find no error and affirm.

BACKGROUND

On September 25, 2014, A.R. was walking to the mall when he saw "a group of four guys" walking toward him. One of the individuals, later identified as appellant, stopped and demanded A.R's cellular telephone. When A.R. refused, appellant punched him in the face, jumped on him, placed him in a "neck lock," and again demanded his phone. A.R. freed himself from appellant's grip and ran away. A.R. reported the incident to the police.

On October 15, 2014, police arrested appellant in connection with the attempted robbery. Appellant's mother met with police and provided them with her then current address (6229 Springhill Court, #202 Greenbelt, MD 20770). On April 7, 2015, the State filed a juvenile petition and complaint for restitution against appellant and sent a proper summons to the Springhill Court address. The summons was returned as undeliverable, and both appellant and his mother failed to appear at the subsequent arraignment on April

27, 2015. The date for the arraignment was reset, and a new summons was sent to a different address (608 Galveston Place SW, Washington, DC 20032) on April 28, 2015. On May 12, 2015, appellant and his mother again failed to appear for his arraignment, and again the summons was returned as undeliverable. The court rescheduled the arraignment for June 15, 2015, and stated that it would attempt to call the telephone number in the file (presumably provided by appellant's mother). The court also requested that service be made by the sheriff.

The State was again unable to effectuate service; appellant and his mother failed to appear on June 15, 2015. At that time the court reported that it had a new address and phone number for appellant, which the State had obtained from the Board of Education.[1] The court indicated that it would call the new number and ordered that a new summons be sent to the new address.[2] The arraignment was reset for July 7, 2015. When appellant and his mother failed to appear on July 7, the court ordered the sheriff's office to effectuate service; the attempt was unsuccessful. When appellant failed to appear at the arraignment scheduled for August 18, 2015, the juvenile court issued a writ of attachment for appellant.

[1] In fact, the "new address" was the Springhill Court address initially provided by appellant's mother, where a summons had previously been sent and returned as undeliverable.

[2] At the next arraignment the court indicated that mail was sent to "2 addresses" during this time period.

On October 14, 2015, appellant's mother received a voice message indicating that appellant had a pending court case before the juvenile court.[3] She contacted the Public Defender's Office, and counsel for appellant entered an appearance on October 15, 2015. It was later revealed that both the State and the court had incorrect contact information for appellant. According to appellant's mother, appellant and his family had moved to a different address "in approximately October of 2014," but neither appellant nor appellant's mother informed the court or the police of the move (or that such a move was imminent). On November 6, 2015, the court remanded appellant to the custody of the Department of Juvenile Services pending an adjudication hearing scheduled for December 7, 2015. The court granted a joint motion to postpone the adjudication hearing to December 15, 2015.

At the adjudication hearing, appellant's counsel argued for dismissal of appellant's case on speedy trial grounds. The juvenile court denied the request and found as follows:

> Let me just say that I am looking at the date stamp on the Petition April 7th, 2015. And this matter came before the Court apparently on 4/27, at least in the jacket it is listed before the Magistrate….Four twenty-seven, 5/12, 6/15, 7/17 and 7/8, starting on 6/15 -- apparently the Court called the new number and the numbers provided here and left a message. Called again on 7/17, left another at the same number and left a message. Called again on 7/8 and left a message.
>
> And what is in this file that follows after that, the Court apparently -- I am looking at a date stamped return June 9, two thousand -- that was issued -- and apparently it went back out for service and the Sheriff attempted service apparently a number of times.

[3] The record does not indicate who left the voice message.

> And as a result of the attempts of service a number of times it was indicated, quote, "7/20 the Defendant does not live here, 7/20, it went back out at 2105, 7/27, 2000 hours, does not live at this address.
>
> Madam Clerk, the Court will deny the request at this time to dismiss.

The juvenile court adjudicated appellant involved and, at the disposition hearing on January 11, 2016, ordered that appellant be placed in a Level B facility. The court then indicated that it would likely hold the restitution hearing at a later date, despite the fact that the issue of restitution was to be heard that day. Nevertheless, the court instructed the parties to "not excuse any witnesses at this time." The court then recessed for lunch.

Following the lunch break, the court reconvened and decided to move forward with the restitution hearing as scheduled. Appellant's counsel requested a continuance because appellant's mother allegedly misunderstood the court's earlier instructions and left the courthouse. The court reminded appellant's counsel that it had instructed the parties to "keep the witnesses here," and appellant's counsel responded that appellant's mother "misunderstood and she left." The court denied the motion to continue.

The State presented evidence that, as a direct result of the attack, A.R. suffered medical expenses totaling $1,006. Following the State's case, appellant's counsel again moved for a continuance, which the court denied. Appellant then testified regarding his employment and financial situation, specifically that he had no job, no savings account, and no money. Appellant also testified that he was completely unfamiliar with his mother's finances, including her current income, debt level, and expenses. The court ordered

appellant to pay restitution in the amount of $1,006, but no restitution order was issued against appellant's mother.

DISCUSSION

I.

Appellant argues that the juvenile court erred in denying his motion to dismiss on speedy trial grounds. Specifically, appellant maintains that the length of time between his arrest and his trial – fourteen months – was presumptively prejudicial and that the State's lack of diligence in notifying him of the pending charges was the primary reason for the delay. Appellant also maintains that the delay resulted in actual prejudice in that it caused him anxiety and concern and decreased his ability to present an adequate defense.

A juvenile's right to a speedy trial is guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and Article 21 of the Maryland Declaration of Rights. See, e.g., State v. Kanneh, 403 Md. 678, 687 (2008); In re Thomas J., 372 Md. 50, 70 (2002). When we review a circuit court's judgment on a motion to dismiss claiming deprivation of the right to a speedy trial, "we make our own independent constitutional analysis." *Glover v. State*, 368 Md. 211, 220 (2002). "We perform a *de novo* constitutional appraisal in light of the particular facts of the case at hand; in so doing, we accept a lower court's findings of fact unless clearly erroneous." *Id.* at 221.

In determining whether the right to speedy trial has been violated, we apply the four-factor balancing test announced by the Supreme Court in *Barker v. Wingo*, 407 U.S. 514 (1972). *See, e.g., Kanneh*, 403 Md. at 687; *In re Thomas J.*, 372 Md. at 72; *Peters v. State*,

224 Md. App. 306, 359 (2015), *cert. denied*, 445 Md. 127 (2015). These factors are: 1) the length of the delay; 2) the reason for the delay; 3) the juvenile's assertion of his speedy-trial right; and 4) any prejudice to the juvenile. *See In re Thomas J.*, 372 Md. at 72. We assess the relative significance of each factor, both by itself and in conjunction with the other factors, to determine if the State's delay in bringing an individual to trial substantially infringed on the individual's right to a speedy trial. A court must examine the "circumstances peculiar to each particular case" with "no one factor being dispositive." *State v. Bailey*, 319 Md. 392, 414-15 (1990).

The law is clear that, as a threshold matter, a reviewing court does not examine the *Barker* factors unless the delay is of "constitutional proportions." *State v. Lawless*, 13 Md. App. 220, 229 (1971). To do this, we look to the length of the delay and ask whether it "crosses the line from ordinary delay to presumptively prejudicial delay." *White v. State*, 223 Md. App. 353, 377 (2015). If the delay does not cross this threshold, the inquiry ends. *Ratchford v. State*, 141 Md. App. 354, 359 (2001).

Whether a particular delay is sufficient to trigger a speedy trial analysis "depends, to some extent, on the crime charged." *Peters*, 224 Md. App. at 360. A complex case involving DNA evidence and multiple witnesses, for instance, may allow for a longer delay, whereas a relatively uncomplicated case involving only one witness may trigger a speedy trial analysis sooner. *Id.* at 360-61. Nevertheless, "[t]he Court of Appeals has consistently held . . . that a delay of more than one year and fourteen days is 'presumptively prejudicial' and requires balancing of the remaining factors." *Lloyd v. State*, 207 Md. App.

322, 328 (2012) (citing *Glover*, 368 Md. at 223). "[F]or purposes of a speedy trial analysis, the length of delay is measured from the date of arrest." *Kanneh*, 403 Md. at 688.

In the present case, appellant was arrested on October 15, 2014, and was brought to trial on December 15, 2015, a span of fourteen months. We hold that this delay triggers a speedy trial analysis. Having determined that appellant's delay was of constitutional significance, we now examine the four *Barker* factors.

A. Length of delay

Length of delay not only acts as a threshold for the *Barker* analysis, but also as its first factor. These functions are separate and distinct from one another. *Ratchford*, 141 Md. App. at 358. The threshold function is purely procedural; "[i]t simply marks the minimal point, short of which a court will dismiss a claim summarily and will not waste its time even inquiring into such things as reason for delay, demand-waiver, or prejudice." *Id.* Once this procedural trigger activates the *Barker* analysis, it "drops out of the picture," and does not factor into the merits of the claim. *Id*. Hence, the concept of "constitutional dimensions" is not relevant to a *Barker* factor analysis. *Id.* at 359.

When we analyze length of delay as a factor in the *Barker* analysis, however, "we view 'length of delay' in a different light." *Id.* at 359. Length of delay factors into the merit of the claim, though "of the four factors we weigh in determining whether [a defendant's] right to a speedy trial has been violated . . . length of delay is the least determinative." *Kanneh,* 403 Md. at 689-90. *See also Erbe v. State*, 276 Md. 541, 547 (1976). It is "heavily influenced by the other three factors, particularly that of 'reasons for

the delay,'" and it "may gain weight or it may lose weight because of circumstances that have nothing to do with the mere ticking of the clock." *Ratchford*, 141 Md. App. at 359. In short, the length of the delay becomes significant when considered within the context of the other factors and the unique circumstances of a particular case. *Compare Brady v. State*, 291 Md. 261, 269-70 (1981) (holding that delay of fourteen months constituted a violation of defendant's right to speedy trial), *with Kanneh*, 403 Md. at 694 (holding that delay of nearly three years did not violate defendant's right to speedy trial).

The fourteen-month delay in the present case, while sufficient to require further constitutional scrutiny, is not "so overwhelming . . . as to potentially override the other factors." *Glover*, 368 Md. at 224-25. The fourteen month delay in this case weighs minimally against the State.

B. Reason for the delay

The second factor – the reason for the delay – is closely related to the length of the delay, in that "different weights should be assigned to different reasons." *Peters*, 224 Md. App. at 361 (quoting *Barker*, 407 U.S. at 531). As the Supreme Court explained:

> A deliberate attempt to delay the trial in order to hamper the defense should be weighted more heavily against the government. A more neutral reason such as negligence or overcrowded courts should be weighted less heavily but nevertheless should be considered since the ultimate responsibility for such circumstances must rest with the government rather than with the defendant. Finally, a valid reason, such as a missing witness, should serve to justify appropriate delay.

Barker, 407 U.S. at 531 (footnote omitted).

Appellant argues that the fourteen month delay between his arrest and his adjudication was "entirely attributable to the State's delay in filing charges and the subsequent failure to inform [him] about the charges." Appellant does not assert that the State acted in bad faith to deliberately delay the trial. Rather, he insists that the State was negligent in "repeatedly sending summonses to addresses that were known to be incorrect" rather than attempting to serve him at a high school in Prince George's County, where appellant was allegedly enrolled since October of 2014. Appellant insists that he was under no obligation to update the State regarding a change in his address because the State has the sole duty of prosecuting an individual.

In evaluating whether the State was negligent in bringing appellant to trial, we note two concerns. First, as appellant correctly points out, he "has no duty to bring himself to trial; the State has that duty." *Barker*, 407 U.S. at 527 (footnote omitted). Second, "[i]n executing this duty, the State must act with 'reasonable diligence.'" *Randall*, 223 Md. App. 519, 546 (2015) (internal citations omitted). "[S]o long as the State acts with reasonable diligence and absent any specific prejudice to the defense's case, a speedy trial claim fails 'however great the delay.'" *Id.* (quoting *Doggett v. U.S.*, 505 U.S. 647, 656 (1992)).

The concept of reasonable diligence is best explained through case law. In *Randall*, this Court held that the State acted with reasonable diligence even though it filed an indictment more than sixteen months after defendant's arrest. In that case, the trial court found that the primary reason for delay was that the defendant lived out of state where

Maryland authorities could not compel her presence. We also noted, however, that "this was not a case in which the State was apathetic about information which it knew was accurate." *Id.* at 547. Rather, the investigators attempted to contact the defendant through the mail at her Arizona address, investigated further when the mailings were returned as undeliverable, conducted background checks, and contacted the Arizona motor vehicle administration for a new address. *Id.* While acknowledging that the State could have done more, we also noted that "what is constitutionally required is reasonable diligence, not perfection." *Id.* at 551. We concluded that, though the delay was ultimately attributable to the State, this factor "weighs only slightly in favor of Appellant." *Id.*

Similarly, in *Glover*, the Court of Appeals held that despite "the State's lack of diligence when the case was postponed for the third time, the delays in [Glover's] case, as a whole, stem largely from neutral reasons." *Glover*, 368 Md. at 228. In that case, the State caused the third postponement by failing to comply with DNA discovery guidelines. *Id.* at 227. Despite admonishing the State for the delay related to DNA disclosure, the Court did not weigh this factor heavily against the State, noting that there was no implication that the State failed to act in good faith. *Id.* at 288.

In contrast, when the State made only a minimal effort to locate a delinquent respondent, the Court of Appeals weighed the delay more heavily against the State. In *In re Thomas J.*, 372 Md. 50 (2002), the State sent the summonses to the same address on three separate occasions. *Id.* at 55. When appellant failed to appear, the State procured a writ of bodily attachment which was renewed annually for three years. *Id.* The juvenile

respondent argued that because his mother had not been "notified of an affirmative duty to notify the clerk of the juvenile court of any change of address," and "did what she reasonably could have by giving the detective in the case her phone number at work, notifying that same detective of her change in address, and notifying the post office of her change of address," the delay should have been weighed heavily against the State. *Id*. The Court of Appeals stated that "because the respondent reasonably kept in contact with the proper authorities and the State simply relied upon a writ, in lieu of contacting respondent's mother or school, we hold that 'a prolongation due to the negligence of the State,' would be weighed, albeit less heavily, against the State." *Id.* at 76 (internal citations omitted). *See also Doggett v. U.S.*, 505 U.S. 647, 652-53 (finding diligence lacking because "Government investigators made no serious effort to test their progressively more questionable assumption that Doggett was living abroad, and had they done so they could have found him within minutes."); *Brady v. State*, 291 Md. 261, 267 (1980) (finding lack of diligence when the State failed to find Brady though he was "right under their nose" in a Maryland penitentiary).

Turning to the instant case, "we will address each postponement of the trial date in turn." *Kanneh*, 403 Md. at 690. Police arrested appellant on October 15, 2014. The State filed a juvenile petition and complaint for restitution on April 7, 2015.[4] Neither the State

[4] In Maryland, a law enforcement officer is required to file a complaint with a Department of Juvenile Services intake officer within 15 days of taking a juvenile into custody. Md. Code (1973, 2013 Repl. Vol., 2016 Supp.), §3-8A-10(m)(1) of Courts and Judicial Proceedings Article ("CJP"). An intake officer has 25 days to make an inquiry and either

nor appellant offers an explanation for this delay. The State, however, must prosecute a juvenile offender in a timely matter. We therefore find that the State was negligent during this period and weigh the delay against the State.

The second through sixth delays all involve scheduled court appearances where the appellant failed to appear because he had not been served. We will address these delays chronologically.

The second delay occurred following appellant's failure to appear for arraignment on April 27, 2015. The State attempted to contact appellant by sending a summons to the Springhill Court address provided by his mother on the day of his arrest. The summons was returned as undeliverable. The arraignment was rescheduled for May 12, 2015.

The third delay occurred following appellant's failure to appear for arraignment on May 12, 2015. The State had again attempted to contact respondent by mailing a summons, this time to a different address (Galveston Place). This summons was also returned as undeliverable and the court rescheduled the arraignment for June 15, 2015. In this instance the State reasonably attempted to obtain service of appellant at a different address.

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authorize or refuse a petition or peace order, or propose an informal adjustment. CJP § 3-8A-10(c)(3). If the complaint alleges commission of an act which would be a felony if committed by an adult and the intake officer denies authorization for the petition or proposes an informal adjustment, the complaint must be referred to the State's Attorney. CJP § 3-8A-10(c)(4). The State's Attorney has 30 days to file or dismiss the petition or refer it for informal disposition. CJP § 3-8A-10(c)(4). Under this statute, a violation "may result in dismissal of a petition, but '*only* if the respondent has demonstrated actual prejudice.'" *In re Christian A.*, 219 Md. App. 56, 63 (2014) (quoting CJP § 3-8A-10(n)). Appellant did not seek dismissal under this statute.

The fourth delay occurred when appellant once again failed to appear for arraignment on June 15, 2015. This time the State attempted notification by sending a summons to the Galveston Place address, ordering the sheriff's office to personally serve appellant at Galveston Place, and calling appellant's mother. We note that sending a summons to the same address where a previous summons had been returned as undeliverable could be viewed as unreasonable. On the other hand, calling appellant's mother and sending the sheriff's office to attempt personal service demonstrates a continuing effort by the State and trial court to locate appellant. The arraignment was rescheduled for July 7, 2015.

The fifth delay occurred when appellant failed to appear for arraignment on July 7, 2015. Prior to the arraignment date, the State contacted the Board of Education to verify appellant's contact information. The State received what it believed to be a new address (in reality it was the Springhill Court address where a summons had previously been sent) and a new telephone number. Summonses were sent to both Springhill Court and Galveston Place, and a voice message was left using the new telephone number. Once again, the State displayed reasonable and diligent efforts to locate appellant by contacting the Board of Education and attempting to contact appellant by telephone and mail. The arraignment was rescheduled for August 18, 2015.

The sixth delay occurred when appellant failed to appear for arraignment on August 18, 2015. The State once again attempted to contact appellant by personal service through the sheriff's office. When appellant failed to appear, the court issued a writ of attachment.

The record does not show any further effort on the part of the State to serve the attachment or otherwise find appellant. No further action occurred in this case until October 14, 2015 when appellant's mother received the voice mail message notifying her of the action pending against appellant.

We conclude that, for the period between April 27, 2015 and August 18, 2015, the State, for the most part, made reasonable efforts to locate and serve appellant. On the other hand, because no action was taken after the attachment was issued, we weigh the delay between August 18, 2015, and October 14, 2015, against the State.

After appellant's mother received the voice message on October 14, 2015, appellant promptly obtained counsel. Appellant's counsel entered his appearance on October 15, 2015, and an adjudication hearing was set for December 7, 2015. We find that the period between October 15 and December 7 represents a reasonable amount of time for normal pre-trial preparation. *See Epps v. State*, 276 Md. 96, 112 (1974) and *Ferrell v. State*, 67 Md. App. 459, 463 (1986). Accordingly, the delay for pre-trial preparation shall not be weighed against either party.

The final delay occurred when the parties jointly moved to postpone the adjudication date. Delays resulting from joint continuances are "not chargeable to either party." *Marks v. State*, 84 Md. App. 269, 283 (1990). The adjudication date was reset for December 15, 2015. We will not weigh this delay against either party.

In summary, the delay between appellant's arrest on October 15, 2014 and the filing of charges on April 7, 2015 is due to the State's negligence in failing to promptly prosecute

the charges. Between April 7, 2015 and August 18, 2015 the State made substantial, though imperfect, attempts to locate appellant. There is no evidence of any attempts to serve the writ of attachment after it was issued in late August, 2015. The delay between October 14, 2015 and December 15, 2015 is attributable to reasonable trial preparation. Finally, there is no evidence that the State intended to impair appellant's defense. Although the delay in this case is far less egregious than in *Thomas J.*, we are persuaded that the delay in this case should be viewed similarly. Accordingly, as in *Thomas J.*, the reason for delay here shall be "weighed, albeit less heavily, against the State." 372 Md. 76.

C. Assertion of speedy trial right

The third factor involves appellant's assertion of his right to a speedy trial. *In re Thomas J.*, 372 Md. at 76. Generally, if a juvenile fails to assert this right as soon as practicable, such a failure "will make it difficult for [the juvenile] to prove that he was denied a speedy trial." *Barker*, 407 U.S. at 531-32; *see also In re Thomas J.*, 372 Md. at 76. On the other hand, this failure will not be weighed against a juvenile if he was unaware that a delinquency petition had been filed. *See In re Thomas J.*, 372 Md. at 76 ("[A] defendant's failure to demand a speedy trial during the period when he was unaware of the charge, cannot be weighed against him.") (internal citations omitted).

Here, appellant first asserted his right to a speedy trial when appellant's counsel entered his appearance in October, 2015, approximately six months after the delinquency petition had been filed; however, there is no evidence that appellant knew about the petition

prior to this date. We find that appellant promptly asserted his right to a speedy trial. This factor weighs in appellant's favor.

D. Prejudice

The final and perhaps most important factor in the *Barker* analysis is whether appellant suffered prejudice as a result of the delay. *Peters v. State,* 224 Md. App. 306, 364 (2015). "Prejudice, in respect to the right to a speedy trial, has been defined to include not merely an 'impairment of defense' but also 'any threat to what has been termed an accused's significant stakes, psychological, physical and financial, in the prompt termination of a proceeding which may ultimately deprive him of life, liberty or property.'" *In re Thomas J.*, 372 Md. at 77 (quoting *U.S. v. Dreyer*, 533 F.2d 112, 115 (3rd Cir. 1976)). Moreover, any prejudice must be evaluated in light of the three primary interests the right to a speedy trial was designed to protect: "(i) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility that the defense will be impaired." *Id.* (quoting *Barker*, 407 U.S. at 532). Citing *Moore v. Arizona*, 414 U.S. 25, 26 (1973), the Court of Appeals has made clear that "*Barker* expressly rejected the notion that an affirmative demonstration of prejudice was necessary to prove a denial of the constitutional right to a speedy trial." *State v. Bailey*, 319 Md. 392, 415 (1990).

In the present case, appellant concedes that the delay did not lead to oppressive incarceration. Appellant claims, however, that the delay caused anxiety and concern, noting that "the sudden awareness of a delinquency petition, after a substantial amount of

time has passed since the underlying incident, can reasonably cause a juvenile anxiety and frustration." Appellant also avers that the delay impaired his defense by decreasing his chances of finding pro-defense witnesses and exculpatory evidence and inhibiting his ability to remember details of the incident.

We find appellant's arguments unpersuasive. Before discussing the specifics of appellant's claims, we acknowledge the negative impact that a delay can have on an individual, particularly a juvenile. *See In re Thomas J.*, 372 Md. at 78 ("Minimizing the time between arrest and disposition in juvenile cases may be especially desirable because of the nature of adolescence.") (internal citations omitted). We also recognize, as previously mentioned, that minimizing the time between arrest and trial is the responsibility of the State. *Id.*

Nevertheless, appellant has provided no evidence that he actually suffered anxiety and concern as a result of the delay. Although an affirmative demonstration of prejudice is not required to prove the denial of an individual's speedy trial rights, the Court of Appeals has indicated "a preference for particularity when claiming anxiety and concern." *Id.* (citing *Bailey*, 319 Md. at 417). At no point, either prior to or during trial, did appellant expressly state, or even imply, the existence of any anxiety or concern. Even on appeal, appellant fails to point to any specific instance of anxiety or concern; instead, appellant makes the general assertion that the delay "no doubt caused him anxiety and concern." This lack of specificity by appellant, while not dispositive, diminishes his claim of prejudice. *Id.*

Appellant's second argument – that the delay impaired his defense – suffers from the same lack of specificity. Appellant has provided no evidence of actual prejudice to the presentation of his defense. There is no evidence that appellant's memory was impaired, that witnesses could not be located, or that exculpatory evidence could have been found. *See Kanneh,* 403 Md. at 694 ("In the case at bar, there is no assertion of any actual prejudice to the defense's case, for example, that any defense witnesses have become unavailable due to the delay."). In fact, the only "example" of prejudice provided by appellant was that "the substantial delay in this case gave [appellant's] attorney insufficient time to analyze DNA evidence and retain an expert who may have provided exculpatory testimony." However, no DNA evidence was introduced by the State at trial; there is no indication that appellant would have retained an expert had he been given more time; and appellant does not suggest that DNA evidence was contaminated, lost, or destroyed as a result of the delay. We hold that there was no prejudice to appellant's defense.

Balancing

In balancing the four *Barker* factors, we conclude that appellant's right to a speedy trial was not violated. As reflected above, the delay of approximately fourteen months is sufficient to trigger the full *Barker* analysis. However, the length of the delay, balanced with the three other *Barker* factors, does not equate to a speedy trial violation. The reasons for the delay do not weigh heavily against the State, particularly because there is no evidence that the State acted in bad faith. Moreover, we find no prejudice to appellant's defense as a result of the delay. Accordingly, the juvenile court correctly denied appellant's motion to dismiss.

II.

Appellant also contends that the juvenile court erred in ordering him to pay $1,006 in restitution. Specifically, appellant maintains that the juvenile court abused its discretion in ordering him to pay restitution "without ensuring that he could afford to pay." We disagree.

Under Section 11-603(a)(2) of the Maryland Criminal Procedure Article,

> "[a] court may enter a judgment of restitution that orders a defendant or child respondent to make restitution . . . if as a direct result of the crime or delinquent act, the victim suffered actual medical, dental, hospital, counseling, funeral, or burial expenses or losses; direct out-of-pocket loss; loss of earnings; or expenses incurred with rehabilitation[.]"

Md. Code (2001, 2008 Repl. Vol.), § 11-603(a)(2) of the Criminal Procedure Article ("CP"). Moreover, if the victim or State requests restitution, and if competent evidence is

presented to the court in support of the restitution amount, the victim is presumed to have a right to restitution. CP § 11-603(b).

For juvenile offenders, the amount of restitution is limited to $10,000 "for each child's acts arising out of a single incident." CP § 11-604(b). Additionally, any imposition of restitution against a juvenile offender should be consistent with the overall objective of the juvenile justice system, which is rehabilitation, not punishment. *See Robey v. State*, 397 Md. 449, 459 (2007) ("Placing an insurmountable debt on a child offender necessarily defeats the rehabilitative purpose of imposing restitution in the first instance because the child may endeavor forever to satisfy the obligation without success."). Therefore, "the lower court must conduct a 'reasoned inquiry' into a person's ability to comply with an order of restitution." *In re Levon A.*, 124 Md. App. 103, 145 (1998), *rev'd on other grounds*, 361 Md. 626 (2000).

Nevertheless, "Maryland law confers upon a juvenile court broad discretion to order restitution." *In re Don Mc.*, 344 Md. 194, 201 (1996). In addition, "the juvenile has the burden of establishing that the restitution awarded by the juvenile court was erroneous." *See In re John M.*, 129 Md. App. 165, 175 (1999), *superseded by statute on other grounds*, CP § 11-603(a)(2)(ii). As such, a juvenile court's decision to impose 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 Don Mc.*, 344 Md. at 201 (internal citations and quotations omitted).

In the present case, there is no evidence that the juvenile court's imposition of restitution against appellant was manifestly unreasonable, nor was the court's discretion exercised on untenable grounds. The court heard competent evidence from the victim and his father regarding the total losses incurred as a direct result of the crime, and the court did not go beyond this established amount. In addition, the amount of restitution was well-below the statutory maximum of $10,000. That the amount imposed was substantial is not by itself dispositive. *See In re Delric H.*, 150 Md. App. 234, 250-54 (2003) (holding that juvenile court did not abuse its discretion in imposing restitution in the amount of $6,693.89.).

Moreover, the court conducted a reasoned inquiry into appellant's ability to pay when it took testimony regarding appellant's employment and financial status.[5] In fact, Section 11-605(a) of the Maryland Criminal Procedure Article expressly authorizes a court to ignore a restitution request if the court finds: "(1) that the restitution obligor does not have the ability to pay the judgment of restitution; or (2) that there are extenuating circumstances that make a judgment of restitution inappropriate." *Id.* Therefore, we must presume, absent any evidence to the contrary, that the trial court understood and applied these laws correctly when it assessed appellant's financial situation and chose to impose

[5] The juvenile court did not order appellant's mother to pay restitution. Accordingly, appellant's claim that the juvenile court erred in failing to conduct a reasoned inquiry into his mother's finances is moot. *See* Md. Code, Criminal Procedure § 11-604(c)(1) ("A court may not enter a judgment of restitution against a parent…unless the parent has been afforded a reasonable opportunity to be heard and to present evidence.").

restitution. *See Cobrand v. Adventist Healthcare, Inc.*, 149 Md. App. 431, 445 (2003) (holding that a trial judge is presumed to know the law and to have performed his duties properly). In this case, the trial court recognized that appellant could not immediately pay the entire amount of restitution, but noted that "a lot of kids actually make money while they are committed." Accordingly, we hold that the juvenile court did not abuse its discretion.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.