

Circuit Court for Baltimore City
Case No. 620002003

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 789

September Term, 2022

IN RE: K.C.

Nazarian,
Tang,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 25, 2023

*At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

*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.

Found by the Circuit Court for Baltimore City, sitting as the juvenile court, to have been involved in five acts of robbery with a dangerous weapon, K.C., appellant, presents for our review a single issue: whether the court erred in ordering restitution. For the reasons that follow, we shall affirm the judgments of the circuit court.

On September 10, 2021, K.C. appeared before Magistrate Troy K. Hill and submitted an admission to the aforementioned acts. The prosecutor subsequently presented the following statement of facts:

On January the 1st, 2020, at approximately 3:57 a.m., police officer Shea Adkins was dispatched to 638 Savage Street . . . on behalf of a burglary in progress report.

Upon the officer's arrival, she was greeted by victim [Jhony] Batista Cartagena [(“Jhony”)] whose primary language was Spanish. . . . The aforementioned victim advised while inside his home located at 638 Savage Street, he was sleeping, he was forcefully wakened by an unknown male armed with a black semiautomatic handgun. The unknown suspect demanded money, stating, “You better give me the money,” and placed the black handgun to victim Juri Batista's head.

Following this chain of events, the unknown suspect then took \$2,600 in cash and the victim's car keys. And there were two sets of car keys taken, one set of car keys to a 2015 Chevy van The other set was for a 2006 Chevy truck

Following that particular incident, the suspects – and it was determined there were approximately seven suspects total – continued in the home, going into every room, approaching the other victims inside with guns and demanding money. The suspects were able to retrieve multiple phones, wallets[,] and cash from other parties. They include:

Wilmer Batista Cartagena [(“Wilmer”)]; taken from [him] was his black wallet . . . valued at \$10 with \$800 U.S. [c]urrency inside.

Taken from Juri Batista Cartagena, her gray iPhone valued at \$300.

Taken from Adrian Batista Cartagena [(“Adrian”)], \$2,400 in U.S. currency, an iPhone 11, an iPhone 10 which was valued at \$1,000 and a brown Levi wallet containing various cards and identifications valued at \$10.

....

From Juri Batista Pinto a Motorola phone, value unknown, and a black LG phone, also value unknown.

* * *

Six of the unknown suspects fled the location on foot in an unknown direction. But one of the suspects, who was later identified as [K.C.], was apprehended inside 638 Savage Street by the victims until police officers arrived on scene to detain him.

The magistrate subsequently found beyond a reasonable doubt that K.C. had committed the acts.

On April 25, May 9, and June 17, 2022, K.C. appeared before the magistrate for hearings on the matters of disposition and restitution. At the April 25 and May 9, 2022 hearings, the State elicited testimony from Adrian and other witnesses. At the June 17, 2022 hearing, the State elicited testimony from Jhony and Wilmer. Following their testimony, the prosecutor stated that the magistrate “must make a basic inquiry into the financial standing for” K.C. The magistrate replied: “[K.C.] is represented by [c]ounsel, so . . . he needs to at least make a statement regarding [K.C.’s] ability to pay. That would satisfy the [c]ourt’s recent inquiry into [K.C.’s] ability to pay.” K.C.’s counsel proffered that K.C. “has no funds, . . . no money, [and] no income.” Counsel subsequently elicited from K.C. testimony that in 2014, he was diagnosed with “some” attention deficient hyperactivity disorder. K.C. conceded that his doctor did not tell him that he was not “able to work in the future.”

Following the close of the evidence, K.C.’s counsel argued, in pertinent part:

In this situation we have a child who has been in a program away from home for many months. He has absolutely no income, no ability to pay. No present ability to pay and no future ability to pay because at this point he is going to have a criminal record, at least until he turns 21. . . .

. . . . It’s going to be very difficult for him to get a job.

. . . . And my [c]lient, again, had to have a public defender represent him. Couldn’t afford a private attorney.

And in order to get a public defender, people . . . have an economic circumstances review and it has to be determined that the person can’t afford a private attorney.

Following argument, the magistrate drafted an order in which he stated, in pertinent part: “The court has made a reasoned inquiry into the age, circumstances[,] and ability of [K.C.] to pay restitution.” The magistrate recommended that the court award Wilmer restitution in the amount of \$800. The magistrate further recommended that the court award Adrian restitution in the amount of \$1,500 for cash stolen from him, \$600 for the phone stolen from him, and \$450 for the stolen keys, for a total of \$2,550. Finally, the magistrate recommended that the court award Jhony restitution in the amount of \$626. The Honorable Emanuel Brown subsequently signed the order.

K.C. first contends that the “restitution award should be struck” because “the court made no reasoned inquiry into [his] ability to pay.” *See Coles v. State*, 290 Md. 296, 306 (1981) (“most courts which have considered the issue have determined that it is improper for a trial court to order restitution without basing that judgment on a reasoned inquiry into the defendant’s ability to pay” (citations omitted)). We disagree. During the hearing on restitution, the magistrate explicitly recognized that he was required to make an “inquiry

into [K.C.’s] ability to pay” restitution, and explicitly requested that K.C.’s counsel “make a statement” regarding that ability. The magistrate allowed K.C. to testify, and his counsel to present argument, regarding K.C.’s assets, mental health, and ability to work in the future, and there is no evidence in the record that the magistrate disregarded this testimony and argument. Finally, the magistrate confirmed in his order that he had “made a reasoned inquiry into the . . . ability of [K.C.] to pay restitution,” and explicitly recognized K.C.’s age and “circumstances.” We conclude from this record that the magistrate made a sufficiently reasoned inquiry into K.C.’s ability to pay restitution.

K.C. next contends that the “State failed to introduce competent evidence to support the . . . award” to Adrian of \$450 for the stolen keys. During the May 9, 2022 hearing, Adrian testified that following the robbery, he “had to make copies of the car keys for all the cars because they took the car keys.” Adrian testified that it cost \$450 “to have the copies for the keys made,” because he “had to hire somebody to come out to make the copy” and “tak[e] the name of the car[s].”

K.C. contends that because Adrian “provided no documentation,” such as a “bill or written estimate,” to “support [his] claim,” his testimony was not competent to support the award of restitution for the keys. We disagree. Although Md. Code (2001, 2018 Repl. Vol., 2021 Supp.), § 11-615 of the Criminal Procedure Article states that “a written statement or bill for [certain] expenses is legally sufficient evidence of the amount, fairness, and reasonableness of the charges,” the statute does not require that the State produce such a statement or bill. The Supreme Court of Maryland (formerly known as the Court of

Appeals of Maryland)¹ has stated that “evidence presented in support of [a] restitution claim is competent if it [is] reliable, relevant, admissible, and trustworthy.” *In re: Cody H.*, 452 Md. 169, 192 (2017). Here, the magistrate, who was charged with determining the credibility of witnesses, clearly found Adrian’s testimony regarding the cost of replacement of the keys to be reliable and trustworthy, and K.C. does not challenge the relevance or admissibility of the testimony. Hence, the court did not err in awarding Adrian restitution for the keys.

**JUDGMENTS OF THE CIRCUIT COURT
FOR BALTIMORE CITY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**

¹At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals of Maryland to the Supreme Court of Maryland. The name change took effect on December 14, 2022. *See also* Rule 1-101.1(a) (“[f]rom and after December 14, 2022, any reference in these Rules or, in any proceedings before any court of the Maryland Judiciary, any reference in any statute, ordinance, or regulation applicable in Maryland to the Court of Appeals of Maryland shall be deemed to refer to the Supreme Court of Maryland”).