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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re C.H., a Person Coming
Under the Juvenile Court Law.

2d Juv. No. B280610
(Super. Ct. No. GJ31296)
(Los Angeles County)

THE PEOPLE,

Plaintiff and Respondent,

v.

C.H.,

Defendant and Appellant.

C.H., a minor, appeals an order for victim restitution (Welf. & Inst. Code, § 730.6)¹ in the amount of \$7,247.11 for costs of obtaining a service dog. We affirm.

¹ Further unspecified statutory references are to the Welfare and Institutions Code, unless indicated otherwise.

FACTUAL AND PROCEDURAL HISTORY

C.H. admitted hitting M.S. (the victim) in the head with a hammer. (Pen. Code, § 245, subd. (a)(4).) C.H. was declared a ward of the court under section 602, and he was placed home on probation.

After the assault, M.S. suffered from symptoms of post-traumatic stress disorder (PTSD), and he obtained a service dog to treat his symptoms. At the restitution hearing, M.S.'s mother testified that the service dog helped calm M.S. and made him feel more comfortable in public, which became an issue after the assault. She submitted a "Confirmation of Disability and Applicant Health Form," in which his doctor recommended a service dog for him. She stated that she did not intend to get M.S. a service dog until after the assault occurred.

M.S.'s mother used 4 Paws For Ability (4 Paws), a service dog agency in Ohio. She explained why she chose 4 Paws, and not a California agency. She said that none of the agencies in California specifically addressed the needs of children. 4 Paws trained their dogs for children and for individuals with PTSD, such as "veterans of recent conflict." Because M.S. was an older teenager, she believed that 4 Paws would be the best fit to "handle a child with a symptom that the older clients have." She added that 4 Paws specialized in treating M.S.'s other "underlying disorder[s]" (attention deficit hyperactivity disorder and fetal alcohol syndrome). The mother was familiar with 4 Paws because she had successfully used the agency for her daughter. Because 4 Paws knew their family, it was able to "quickly" place M.S. with a service dog. M.S. waited six months, rather than two and a half years, for a dog. Lastly, the mother chose 4 Paws because she had the option to fundraise money

(\$17,000) toward the costs of obtaining a service dog, rather than paying for the entire costs (approximately \$22,000) herself.

M.S. sought restitution for \$7,247.11, the amount spent to obtain a service dog. He submitted proof of the total costs, which consisted of the dog's surgery (\$2,542.68), harness (\$75), dog grooming supplies (\$35.20), roundtrip airfare from Los Angeles to Ohio (\$1,193.40), rental car (\$642.70), gas (\$34.03), hotel room for 15 nights (\$2,110.01), groceries (\$257.58), restaurant meals (\$156.51), and at-home child care (\$200).

The juvenile court questioned the mother on the dog's surgery bill. The mother testified that 4 Paws was training the dog when it discovered that the dog required surgery. 4 Paws believed that the dog was an "ideal match" for M.S., and it offered to waive the \$17,000 fundraising requirement if the mother paid the surgery costs. Mother's payment for surgery expedited the placement process for M.S.

At the conclusion of the hearing, the court indicated that it needed more evidence to show a "connection between the [PTSD] and the service dog." It requested evidence, such as a letter from M.S.'s doctor, to show such a connection. The court continued the matter to obtain the evidence. The mother submitted a letter from M.S.'s doctor at the next hearing.

The court awarded restitution in the amount of \$7,247.11. It found the costs of the service dog was "directly related to the assault"; the mother acted "reasonably and prudently" in obtaining the service dog; and the dog's surgery "expedited the delivery of the service dog and was reasonable under the unique facts of this case."

DISCUSSION

C.H. argues the juvenile court abused its discretion in ordering restitution for the service dog costs because the costs “lacked a proper nexus” to C.H.’s conduct and the amount was excessive. There was no abuse of discretion.

The juvenile court shall order restitution in an amount “sufficient to fully reimburse the victim . . . for all determined economic losses incurred as the result of the minor’s conduct” unless the court finds “compelling and extraordinary reasons” not to do so. (§ 730.6, subd. (h)(1).) A “restitution order is intended to compensate actual loss and is not intended to provide a windfall.” (*People v. Kelly* (2010) 189 Cal.App.4th 73, 77.)

The burden is on the party seeking restitution to provide an adequate factual basis for the claim. (*People v. Giordano* (2007) 42 Cal.4th 644, 664.) “Once the victim makes a prima facie showing of economic losses incurred as a result of the defendant’s criminal acts, the burden shifts to the defendant to disprove the amount of losses claimed by the victim.” (*People v. Gemelli* (2008) 161 Cal.App.4th 1539, 1543.)

The juvenile court is not required to order restitution in the precise amount of loss. It may use any rational method in calculating the amount of restitution so long as it is reasonably calculated to make the victim whole and it is consistent with the purpose of rehabilitation. (*In re Alexander A.* (2011) 192 Cal.App.4th 847, 853 (*Alexander A.*))

We review a juvenile court’s order of victim restitution for an abuse of discretion. (*Luis M. v. Superior Court* (2014) 59 Cal.4th 300, 305.) A restitution order will be upheld if there is a factual and rational basis for the amount of

restitution ordered by the court. (*Alexander A.*, *supra*, 192 Cal.App.4th at p. 857.)

The juvenile court reasonably found that M.S. incurred the costs of a service dog as a result of C.H.'s conduct. The mother testified that M.S. suffered from PTSD symptoms as a result of the assault and that she was not going to get a service dog for M.S. until after the assault. She submitted a letter from M.S.'s doctor. The record on appeal does not include this letter. The juvenile court noted that in the letter, the doctor referred to M.S.'s PTSD as a part of his assessment in recommending the service dog. In the absence of a showing in the record to the contrary, we construe all presumptions in favor of the court's findings and ruling. (*People v. Garris* (1953) 120 Cal.App.2d 617, 618.)

C.H. argues that M.S. was diagnosed with PTSD before the assault. But even so, that does not preclude compensation. Section 730.6 does not require C.H.'s conduct to be the sole cause of M.S.'s loss; rather, the statute only requires the conduct to be a substantial factor in causing the loss. (See *In re A.M.* (2009) 173 Cal.App.4th 668, 673.) Here, the evidence shows that M.S.'s PTSD symptoms were exacerbated by the assault.

C.H. also claims that the mother "already sought a therapy dog before the incident," and cites as evidence the fact the dog's surgery took place weeks before she signed an agreement with 4 Paws and before M.S.'s doctor submitted his medical approval. But these facts do not refute her claim that she obtained the service dog for M.S.'s injuries from the assault. The surgery happened several weeks after the assault. The

juvenile court did not abuse its discretion in finding that C.H.'s conduct caused M.S. to obtain a service dog.

The restitution amount was not excessive because the costs were reasonable. The mother testified that she chose 4 Paws over a California agency because it provided services specific to M.S.'s needs; it allowed a dog to be placed with M.S. in 6 months; and it gave her the option to fundraise rather than to pay the entire costs herself. C.H. did not present evidence that refuted these claims. C.H. did not show that other agencies were less expensive. Nor did he show that other agencies provided comparable services specific to M.S.'s needs.

C.H. argues the juvenile court abused its discretion in awarding costs for the dog's surgery, and he asserts that the court initially denied such costs. A notation on the "Statement of Loss," which was submitted to the probation department, states that the surgery costs were "denied." The mother testified that she received "a letter from the court saying that a portion" of the requested restitution was approved. The record is unclear on whether these costs were ever denied by the court. Regardless of whether such costs were initially denied, the court indicated at the restitution hearing that the dog's surgery costs were "an issue" it would consider. After the presentation of evidence, including the mother's testimony that she paid for surgery to expedite the placement process and to avoid fundraising \$17,000, the court found that "[t]he cost of surgery expedited the delivery of the service dog and was reasonable under the unique facts of this case." The court did not abuse its discretion in awarding the surgery costs.

We also reject C.H.'s contention that M.S. had a duty to mitigate his loss. Nowhere in section 730.6 does it require a

victim to mitigate damages. (See also Pen. Code, § 1202.4.) Nor do the cases C.H. cites state that a victim has such a duty. (*People v. Thygesen* (1999) 69 Cal.App.4th 988, 995; *People v. Fortune* (2005) 129 Cal.App.4th 790, 794-795; *People v. Crow* (1993) 6 Cal.4th 952, 962.) Even if there was a requirement to mitigate, there is no evidence that M.S. failed to do so. In any event, C.H. did not show less expensive and comparable alternatives.

DISPOSITION

The victim restitution order is affirmed.

NOT TO BE PUBLISHED.

TANGEMAN, J.

We concur:

GILBERT, P. J.

PERREN, J.

Robert Leventer, Judge

Superior Court County of Los Angeles

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Appeal, for Defendant and Appellant.

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