

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

IN RE KIASHAWN M.

No. 1 CA-JV 16-0530
FILED 6-20-2017

Appeal from the Superior Court in Maricopa County
No. JV201073
The Honorable Alysson H. Abe, Judge *Pro Tempore*

AFFIRMED

COUNSEL

Maricopa County Public Advocate, Phoenix
By Louis Harvey
Counsel for Appellant

Maricopa County Attorney's Office, Phoenix
By Diane Meloche
Counsel for Appellee

MEMORANDUM DECISION

Presiding Judge Diane M. Johnsen delivered the decision of the Court, in
which Judge Margaret H. Downie and Judge James P. Beene joined.

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JOHNSON, Judge:

¶1 Kiashawn M. appeals from an order imposing restitution. His appeal was timely filed in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297 (1969). Kiashawn's counsel has searched the record on appeal and found no arguable question of law that is not frivolous. See *Smith v. Robbins*, 528 U.S. 259 (2000); *Anders*, 386 U.S. at 738; *State v. Clark*, 196 Ariz. 530 (App. 1999); *Maricopa County Juv. Action No. JV-117258*, 163 Ariz. 484 (App. 1989). Counsel now asks this court to search the record for fundamental error. After reviewing the entire record, we affirm the order.

FACTS AND PROCEDURAL BACKGROUND

¶2 On August 24, 2016, Kiashawn admitted to a single charge of assault, a Class 1 misdemeanor.¹ The superior court adjudicated Kiashawn delinquent, ordered restitution capped at \$2,000, and set a deadline for filing a Verified Victim Statement. At the disposition hearing on September 27, the court placed Kiashawn on summary probation with special conditions and set a restitution hearing for November 9. The court ordered the victim to produce by October 17 any documents to be used at the hearing to support his claim for reimbursement of medical expenses incurred as a result of the assault. At the November restitution hearing, the State told the court the victim had not yet been able to produce the backup documents and asked the court to continue the disclosure deadline. With the consent of the defense, the superior court reset the restitution hearing to December 6. At the December hearing, the court received insurance documents from the victim supporting the request for restitution. Based on the documents and the testimony of the victim's stepmother, the court ordered Kiashawn to pay the victim restitution of \$1,521.13 for medical expenses resulting from the assault.

¹ On appeal, we view the evidence in the light most favorable to upholding the court's judgment and resolve all reasonable inferences against the juvenile. See *In re Jessi W.*, 214 Ariz. 334, 336, ¶ 11 (App. 2007).

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¶3 Kiashawn timely appealed. We have jurisdiction pursuant to Article 6, Section 9, of the Arizona Constitution, and Arizona Revised Statutes ("A.R.S.") sections 8-235(A) (2017) and 12-120.21(A)(1) (2017).²

DISCUSSION

¶4 The court must order a juvenile to make full or partial restitution to the victim of an offense for which the juvenile has been adjudicated delinquent. A.R.S. § 8-344(A) (2017); *see also In re Stephanie B.*, 204 Ariz. 466, 470, ¶ 16 (App. 2003). The superior court has discretion to set restitution in an amount necessary to make the victim whole. *See In re William L.*, 211 Ariz. 236, 239, ¶ 12 (App. 2005). The court must order restitution in the full amount of the victim's economic loss, meaning "any loss incurred by a person as a result of the commission of an offense." A.R.S. §§ 13-105(16) (2017), -603(C) (2017). Restitution is proper for losses that: (1) are economic, (2) would not have occurred but for the delinquent conduct, and (3) are directly caused by the delinquent conduct. *In re Andrew C.*, 215 Ariz. 366, 368, ¶ 9 (App. 2007) (citing *State v. Wilkinson*, 202 Ariz. 27, 29, ¶ 7 (2002)).

¶5 We review a restitution order for an abuse of discretion. *See In re Erika V.*, 194 Ariz. 399, 400, ¶ 2 (App. 1999). We will affirm the order if it bears a reasonable relationship to the victim's loss, *see State v. Wilson*, 185 Ariz. 254, 260 (App. 1995), and is supported by a preponderance of the evidence, *Stephanie B.*, 204 Ariz. at 470, ¶ 15.

¶6 Kiashawn was adjudicated delinquent, and evidence in the record was sufficient for the court to find by a preponderance that the victim was entitled to restitution of \$1,521.13. Under the authorities cited above, the victim's loss was economic because he incurred medical expenses caused by the assault. Although the victim was unable to provide necessary documentation by the initial deadline, the court did not abuse its discretion by continuing the deadline with the consent of the defense.

CONCLUSION

¶7 We have read and considered counsel's brief and searched the entire record for fundamental error. *See JV-117258*, 163 Ariz. at 488. We find none, and therefore affirm the restitution order.

² Absent material revision after the date of an alleged offense, we cite a statute's current version.

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¶8 After the filing of this decision, defense counsel's obligations pertaining to Kiashawn's representation in this appeal have ended. Defense counsel only need inform Kiashawn of the outcome of this appeal and his future options, unless, upon review, counsel finds an issue appropriate for submission to the Arizona Supreme Court by petition for review. *See* Ariz. R.P. Juv. Ct. 107(A); *State v. Shattuck*, 140 Ariz. 582, 584-85 (1984).



AMY M. WOOD • Clerk of the Court
FILED: AA