



## FACTS AND PROCEDURAL BACKGROUND

¶12 The facts relevant to the issue raised on appeal are not disputed. Pursuant to a plea agreement filed April 24, 2012, the court adjudicated the juvenile delinquent to facilitation to commit burglary in the second degree. A term of the plea agreement also provides that the juvenile "agrees to pay restitution to all victims, for all economic loss" arising out of his offense in an amount not to exceed \$60,000.

¶13 On June 29, 2012, the court conducted a restitution hearing. At the outset, the juvenile stipulated to restitution as to three of the four victims. The State then called the remaining victim, R.P., to testify. R.P. testified that his 2004 Chevy Silverado was stolen and vandalized, and the high-end stereo and expensive wheels with which he had upgraded the truck were removed. R.P. was informed that the truck "was a total loss," but he opted to have it repaired. R.P. presented receipts for the repairs totaling \$10,161.16, but testified that the actual cost of the repairs "was more, but those were the only receipts that I ha[ve]."

¶14 During cross-examination by counsel for the juvenile, R.P. testified he did not know the Kelly Blue Book value of the truck. At the close of evidence, the court asked counsel to supply "the high and low Blue Book value for a 2004 Silverado."

¶15 The superior court subsequently entered a restitution order in the amount of \$11,965.00, reflecting the "blue book" fair condition value of the vehicle. This appeal followed. We have jurisdiction pursuant to Article 6, Section 9 of the Arizona Constitution, and Arizona Revised Statutes (A.R.S.) sections 12-120.21(A)(1) (2003), 13-4031, and -4033(A)(1) (2010).

#### DISCUSSION

¶16 As his sole issue on appeal, the juvenile contends that the superior court erred by ordering restitution in the amount of \$11,965.00, rather than in the amount of the documented repairs, \$10,161.16.

¶17 "If a juvenile is adjudicated delinquent, the court, after considering the nature of the offense and the age, physical and mental condition and earning capacity of the juvenile, shall order the juvenile to make full or partial restitution to the victim of the offense for which the juvenile was adjudicated delinquent." A.R.S. § 8-344(A) (Supp. 2012). "We review a juvenile court's restitution determination for an abuse of discretion. On appeal, we will uphold the amount of restitution if it bears a reasonable relationship to the victim's loss." *In re William L.*, 211 Ariz. 236, 239, ¶ 10, 119 P.3d 1039, 1042 (App. 2005) (citation omitted).

¶18 "[W]e view the evidence bearing on a restitution claim in the light most favorable to sustaining the court's order." *State v. Lewis*, 222 Ariz. 321, 324, ¶ 5, 214 P.3d 409, 412 (App. 2009). "The burden of proof applicable to restitution is proof by a preponderance of the evidence." *In re Stephanie B.*, 204 Ariz. 466, 470, ¶ 15, 65 P.3d 114, 118 (App. 2003). "To ensure that the victim is made whole, the court has broad discretion in setting the restitution amount based on the facts of the case." *In re William L.*, 211 Ariz. at 239, ¶ 12, 119 P.3d at 1042. Although generally the court uses the fair market value of the property at the time of the loss to measure restitution, when fair market value will not make the victim whole, the court has discretion to use other measures. *Id.* at 240, ¶ 15, 119 P.3d at 1043.

¶19 Here, the victim testified that he was informed his vehicle was a "total loss" after it was vandalized by the juvenile. Nonetheless, the victim opted to repair the truck and was able to restore it to an operable condition. The victim submitted repair invoices totaling \$10,161.16, but testified that the actual cost of the repairs "was more, but those were the only receipts that I ha[ve]." Although the State has confessed error, we conclude that sufficient evidence was presented to support the amount of restitution ordered by the superior court. See *State v. Sanchez*, 174 Ariz. 44, 45, 846

P.2d 857, 858 (App. 1993) (appellate court not required to accept State's confession of error).

**CONCLUSION**

¶10 For the foregoing reasons, we affirm.

\_\_\_\_\_/s/\_\_\_\_\_  
PHILIP HALL, Presiding Judge

CONCURRING:

\_\_\_\_\_/s/\_\_\_\_\_  
SAMUEL A. THUMMA, Judge

\_\_\_\_\_/s/\_\_\_\_\_  
PETER B. SWANN, Judge