

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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 JOSEPH M.

No. 1 CA-JV 17-0135
FILED 5-22-2018

Appeal from the Superior Court in Maricopa County
No. JV599011
The Honorable Shellie F. Smith, Judge *Pro Tempore*

AFFIRMED

COUNSEL

Maricopa County Public Advocate's Office, Mesa
By Logan Mussman
Counsel for Appellant

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

MEMORANDUM DECISION

Judge Peter B. Swann delivered the decision of the court, in which Presiding
Judge Randall M. Howe and Judge Maria Elena Cruz joined.

IN RE JOSEPH M.
Decision of the Court

S W A N N, Judge:

¶1 Joseph M. appeals under *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297 (1969), from the juvenile court's restitution order for criminal damage he committed in his elementary school classroom. We have reviewed the record for fundamental error. See *Anders*, 386 U.S. 738; *Smith v. Robbins*, 528 U.S. 259 (2000); *State v. Clark*, 196 Ariz. 530 (App. 1999); *In re Maricopa Cty. Juv. Action No. JV-117258*, 163 Ariz. 484, 487 (App. 1989). Counsel also requests that we determine whether the court abused its discretion by awarding restitution. For the following reasons, we affirm.

¶2 On July 19, 2016, Joseph M. was adjudicated delinquent under A.R.S. § 13-1602(A)(1) and (B)(1) for criminal damage he caused in his school classroom. Counsel for Joseph M. requested a restitution hearing. On November 28, 2016, the court held a restitution hearing and Joseph M. attended.

¶3 The state presented witness testimony and invoices for amounts that the Arizona School Risk Retention Trust paid to vendors to repair the damaged classroom. Phoenix Elementary School District requested \$1,000 for its insurance deductible and the Arizona School Risk Retention Trust requested \$33,850.91 for the cost of the repairs. After the hearing, the court ordered Joseph M. to pay a cumulative total of \$34,850.91 in restitution to the victims. Joseph M. appeals.

¶4 Under Arizona's constitutional and statutory scheme, a victim is afforded the right "[t]o receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury." Ariz. Const. art. 2, § 2.1(A)(8). After a juvenile is adjudicated delinquent, the court shall order the juvenile to make full or partial restitution to the victim "after considering the nature of the offense and the age, physical and mental condition and earning capacity of the juvenile." A.R.S. § 8-344(A). Further, the court must use a three-part test to determine whether restitution is warranted. *In re Andrew C.*, 215 Ariz. 366, 368, ¶ 9 (App. 2007). Restitution is warranted when the losses are (1) economic, (2) would not have occurred but for the juvenile's delinquent conduct, and (3) are directly caused by the delinquent conduct. *Id.* We review a restitution order for an abuse of discretion and consider the facts "in the light most favorable to upholding the decision." *Id.* at 367, ¶ 6.

¶5 We have searched the record for error with respect to the restitution order and find none. Joseph M. was present and represented by

IN RE JOSEPH M.
Decision of the Court

counsel at all critical stages, including the disposition, the restitution hearing, and on this appeal. And the record supports the restitution order. *See Maricopa Cty. Juv. Action No. JV-132905*, 186 Ariz. 607, 609 (App. 1996) (“We do not reweigh the evidence, but only look to determine if there is evidence to sustain the juvenile court’s ruling.”). The state presented sufficient evidence for the court to determine the following. First, the restitution awarded was economic in nature – the state presented witness testimony and documentation concerning the economic loss sustained by the school. Second, the economic loss would not have occurred but for Joseph M.’s delinquent conduct, and the economic loss was incurred as a direct result of Joseph M.’s actions. We hold that the court acted within its discretion by considering the nature of Joseph M.’s offense, his age, physical and mental condition, and earning capacity. *Cf. In re Eric L.*, 189 Ariz. 482, 486–87 (App. 1997) (reversing restitution order and remanding for court to consider juvenile’s age, physical and mental condition, and earning capacity). We find no fundamental error in the court’s award of restitution in the amount of \$34,850.91.

¶6 Finding no reversible error and no arguable issue warranting further review, we affirm the court’s restitution order. Counsel is obligated to inform Joseph M. of the status of the appeal and his future options, unless review by counsel reveals an issue appropriate for submission to the Arizona Supreme Court by petition for review. *See Ariz. R.P. Juv. Ct. 107(A), (J)*.



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