

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JARED ALLEN,	§	
	§	No. 543, 2011
Defendant Below,	§	
Appellant,	§	
	§	Court Below: Family Court
v.	§	of the State of Delaware,
	§	in and for New Castle County
STATE OF DELAWARE,	§	
	§	Case No. 1008026764
Plaintiff Below,	§	
Appellee.	§	

Submitted: February 22, 2012

Decided: May 10, 2012

Before **STEELE**, Chief Justice, **BERGER** and **RIDGELY**, Justices.

ORDER

This 10th day of May, 2012, on consideration of the briefs of the parties, it appears to the Court that:

1) Jared Allen¹ appeals the Family Court's Restitution Sentencing Order and its denial of his motion for reconsideration. He was adjudicated delinquent on one count of reckless burning and one count of criminal trespass. After a restitution hearing, the trial court ordered restitution in the amount of \$24,508.25. Allen contends that the trial court erred in finding that: 1) the victim came before the court

¹This Court *sua sponte* assigned Appellant a pseudonym by Order dated October 13, 2011, pursuant to Supr. Ct. R. 7(d).

with “clean hands;” and 2) a juvenile’s ability to pay restitution should not be considered in deciding an appropriate amount of restitution. We find no merit to either argument, and affirm.

2) In February 2010, Allen and a friend went to a vacant farmhouse in Hockessin, Delaware. While there, Allen lit a torch, but failed to extinguish it. As a result, the farmhouse caught fire and suffered significant damage. Harvey Hanna & Associates is the real estate developer that owned the property. Hanna was told by a former State Fire Marshall officer, and an engineer, that the farmhouse had to be demolished because it was an imminent public safety hazard.

3) Demolition began on March 1, 2010. An enforcement officer from the New Castle County Land Use Department noticed the demolition and determined that Hanna did not have a demolition permit. On March 2nd a Stop Work Order was posted on the farmhouse door, but demolition continued until it was completed on March 3rd. After a Rule to Show Cause hearing, Hanna was fined \$2,300 for working without a valid permit and violating a Stop Work Order.

4) Allen was adjudicated delinquent on October 12, 2010. In August 2011, the Family Court held a restitution hearing. The parties stipulated that Hanna incurred the following costs: a) \$21,003 for demolition; b) \$2,505 for asbestos removal; c) \$5,000 reward payment; d) \$1,662 for employee expenses; and e) \$473 for

attorneys' fees. Hanna sought the full \$30,642, but the court ordered \$24,5008.25. The trial court excluded Hanna's employee expenses, attorneys' fees, and \$4000 of the reward money.

5) At the restitution hearing, and again on appeal, Allen argues that Hanna's demolition costs should not be included in a restitution order because Hanna failed to get a demolition permit, and, therefore, had "unclean hands." The clean hands doctrine allows a court of equity to refuse relief to a party whose inequitable conduct relates directly to the claim presented.² But Hanna's conduct had nothing to do with the farmhouse burning down. After the fire, Hanna had no choice but to demolish the building. The fact that Hanna failed to obtain a demolition permit has no bearing on the cost of demolition or the fact that demolition was required by Allen's conduct. In short, the unclean hands doctrine has no application on these facts.

6) Allen also argues that the trial court failed to consider his ability to generate income and his ability to pay restitution. His argument is factually flawed. The trial court recognized that Allen was young and that he was being ordered to pay a lot of money. But, the court also noted that the fact that a person is young should not mean that the victim has to pay for the juvenile's destructive conduct. After considering both sides of the problem, the court decided to award restitution in an amount that

²*Sloan v. Segal*, 2010 WL 2169496 (Del. Supr.).

was less than Hanna's stipulated costs. We find no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court be, and the same hereby is, AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice