

SUPREME COURT OF WASHINGTON

State v. A.M.R.; State v. T.J.Z., 147 Wash. 2d 91

51 P.3d 790 (2002) · No. 71803-2 · Decided August 8, 2002

SUMMARY

The Washington Supreme Court held that the State may appeal juvenile restitution orders under RCW 13.04.033(1), which permits an appeal by any aggrieved person. It further held that restitution is mandatory under RCW 13.40.190 and that crime victims’ insurers qualify as persons and victims entitled to restitution for proven losses. The court affirmed and remanded for entry of restitution orders consistent with its opinion.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Owens, J.; Alexander, C.J.; Smith, J.; Johnson, J.; Madsen, J.; Sanders, J.; Ireland, J.; Bridge, J.; Chambers, J.
JURISDICTION	Washington
DECIDED	August 8, 2002
DOCKET	71803-2
DISPOSITION	affirmed
PROCEDURAL POSTURE	The juveniles petitioned for review of a Court of Appeals decision reversing juvenile restitution orders and remanding for restitution to the victims' insurers. The Supreme Court of Washington affirmed the Court of Appeals and remanded to the juvenile court.
PRECEDENTIAL VALUE	published, en banc, precedential
PARTIES	A.M.R., T.J.Z. v. State of Washington

TOPICS

- appellate procedure
- statutory interpretation
- restitution criminal
- criminal procedure
- legislative history

PRACTICE AREAS

- juvenile law
- criminal procedure
- appellate procedure
- restitution

QUESTIONS PRESENTED

1. Whether the State may appeal juvenile restitution orders under RCW 13.04.033(1).
2. Whether crime victims' insurers are persons and victims entitled to restitution under RCW 13.40.190(1) and the Juvenile Justice Act.

HOLDINGS

1. RCW 13.04.033(1), which permits any person aggrieved by a final juvenile-court order to appeal, authorizes the State to appeal an erroneous juvenile restitution order.
2. Crime victims' insurers are persons and victims entitled to restitution for covered losses under RCW 13.40.190(1), subject to sufficient proof of loss.

KEY QUOTATIONS

“The Court of Appeals answered both questions in the affirmative, and so do we.” (51 P.3d at 791)

“The insurance companies are “victims” entitled to restitution.” (51 P.3d at 793)

“Because the Basic Juvenile Court Act provides that “any person aggrieved” may appeal, we hold that the state may appeal these juvenile restitution orders, and that restitution must be made to “any persons who have suffered loss.”” (51 P.3d at 793)

FACTUAL BACKGROUND

A.M.R. pleaded guilty to second-degree vehicle prowl and making a false statement to a public servant after damaging a victim's vehicle. The juvenile court ordered restitution of \$100 in out-of-pocket losses but excluded \$393.02 paid by the victim's insurer based on its view that it could consider the juvenile's ability to pay. T.J.Z. pleaded guilty to taking a motor vehicle without permission and attempting to elude, and the juvenile court likewise ordered only the victim's out-of-pocket losses, excluding the insurer's payment of \$533.28. The State appealed the exclusion of insurer-paid losses in both cases.

PROCEDURAL HISTORY

A.M.R. and T.J.Z. pleaded guilty to juvenile offenses. The juvenile courts ordered restitution only for the victims' out-of-pocket losses and declined to order restitution for losses paid by insurers. The State appealed, the Court of Appeals consolidated the cases, reversed, and remanded with instructions to enter restitution orders for the insurers subject to proof of loss. The Supreme Court granted review, affirmed, and remanded.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

Remand to the juvenile court to enter restitution orders for the insurers consistent with the opinion, subject to sufficient proof of loss.

CASES CITED

- State v. A.M.R., 108 Wash. App. 9, 14, 27 P.3d 678 (2001)
- In re Pers. Restraint of Schellong, 94 Wash. 2d 314, 317, 616 P.2d 1233 (1980)
- State v. Pacheco, 125 Wash. 2d 150, 154, 882 P.2d 183 (1994)
- In re Brazier Forest Prods., Inc., 106 Wash. 2d 588, 595, 724 P.2d 970 (1986)
- Sheets v. Benevolent & Prot. Order of Keglers, 34 Wash. 2d 851, 854-55, 210 P.2d 690 (1949)
- State v. Williams, 112 Wash. App. 171, 48 P.3d 354 (2002)
- State v. Mail, 121 Wash. 2d 707, 712, 854 P.2d 1042 (1993)
- State v. Bernhard, 108 Wash. 2d 527, 530, 741 P.2d 1 (1987)
- State v. Shove, 113 Wash. 2d 83, 85, 776 P.2d 132 (1989)
- State v. Johnson, 24 Wash. 75, 77, 63 P. 1124 (1901)
- Arizona v. Manypenny, 451 U.S. 232, 246, 101 S. Ct. 1657, 68 L. Ed. 2d 58 (1981)
- United States v. Sanges, 144 U.S. 310, 315-16, 12 S. Ct. 609, 36 L. Ed. 445 (1892)
- State v. Martin, 137 Wash. 2d 149, 154, 969 P.2d 450 (1999)
- State v. Sanchez, 73 Wash. App. 486, 488-90, 869 P.2d 1133 (1994)
- State v. Davison, 116 Wash. 2d 917, 920-21, 809 P.2d 1374 (1991)
- Int'l Ass'n of Fire Fighters, Local 46 v. City of Everett, 146 Wash. 2d 29, 39-40, 42 P.3d 1265 (2002)

OPINION

State v. AMR 51 P.3d 790

PER CURIAM.

51 P.3d 790 (2002) 147 Wash.2d 91 STATE of Washington, Respondent, v. A.M.R., B.D. 03-15-83, Petitioner. State of Washington, v. T.J.Z., B.D. 02-08-82, Petitioner. No. 71803-2. Supreme Court of Washington, En Banc. Argued May 29, 2002. Decided August 8, 2002.

*791 Elaine Winters, Washington Appellate Project, Seattle, for Petitioner.

Norm Maleng, King County Prosecutor, Ann Summers, Robin Fox, James Whisman, Deputies, Seattle, for Respondent. OWENS, J. We are asked to decide two questions: may the state appeal restitution orders entered against two juvenile offenders; and, if so, are the crime victims' insurance companies "victims" entitled to restitution. The Court of Appeals answered both questions in the affirmative, and so do we.

FACTS

A.M.R. pleaded guilty to vehicle prowl in the second degree and making a false statement to a public servant. The state requested the court to order restitution for the damage to the victim's vehicle. The state sought an award of \$493.02, representing out-of-pocket costs to the victim of \$100.00 and costs to the victim's insurer of \$393.02. Based on the court's view that it was "empowered to take account of the ability of the juvenile to pay," it ordered restitution for only the victim's out-of-pocket costs. Report of Proceedings at 23. T.J.Z. pleaded guilty to taking a motor vehicle without permission and attempting to elude a pursuing police vehicle. The court ordered

restitution of \$533.28, representing only the victim's out-of-pocket costs. The state objected to the court's failure to order restitution to the victim's insurer. The court said it was ordering only out-of-pocket costs to be consistent with common practice in juvenile cases. The state appealed both cases. The Court of Appeals consolidated them. It reversed and remanded with instructions to the juvenile court to enter restitution orders for the insurers subject to proof of losses. *State v. A.M.R.*, 108 Wash.App. 9, 14, 27 P.3d 678 (2001). We granted the juveniles' petition for review and now affirm.

ISSUES

(1) May the state appeal juvenile restitution orders?

(2) Are the victims' insurers entitled to restitution?

ANALYSIS

(1)

The jurisdiction of the Court of Appeals must be "provided by statute or by rules authorized by statute." Const. art. IV, § 30(2). Juvenile proceedings in the superior courts fall under the Basic Juvenile Court Act, chapter 13.04 RCW. The key provision in this case is RCW 13.04.033(1): Any person aggrieved by a final order of the court may appeal the order as provided by this section.... Except as otherwise provided in this title, all appeals in matters related to the commission of a juvenile offense shall be taken in the same manner as criminal cases.... This establishes a "basic right of appeal" in juvenile cases. In *re Pers. Restraint of Schellong*, 94 Wash.2d 314, 317, 616 P.2d 1233 (1980). The right extends to any "person" that is "aggrieved." Since neither term is defined by the Basic Juvenile Court Act, the court may turn to the common law or a dictionary. *State v. Pacheco*, 125 Wash.2d 150, 154, 882 P.2d 183 (1994). The common law meaning of "person" includes "both natural and artificial persons, and therefore corporations." In *re Brazier Forest Prods., Inc.*, 106 Wash.2d 588, 595, 724 P.2d 970 (1986). Black's Law Dictionary 1162 (7th ed.1999) defines "person" as "[a]n entity (such as a corporation) that is recognized by law as having the rights and duties of a human being." Webster's Third New International Dictionary of the English Language 1686 (1986) includes this legal sense (definition 6 of 9). Because the state is recognized as having rights and duties, it is a legal "person." When the word "aggrieved" appears in a statute, it refers to "'a denial of some personal or property right, legal or equitable, or the imposition upon a party of a burden or obligation.'" *Sheets v. Benevolent *792 & Prot. Order of Keglers*, 34 Wash.2d 851, 854-55, 210 P.2d 690 (1949) (quoting 4 C.J.S. 356 Appeal and Error § 183b(1)). Two specifically enumerated purposes of the Juvenile Justice Act of 1977, chapter 13.40 RCW, are promoting accountability in juvenile offenders and providing restitution to crime victims. RCW 13.40.010(2)(c), (h). Restitution is a required part of juvenile sentencing. RCW 13.40.190. Because of the state's interests in accountability and restitution in juvenile cases, it is "aggrieved" within the meaning of RCW 13.04.033(1) by an erroneous restitution order. This statute therefore allows the state to appeal. The procedure for prosecuting the appeal is the same as for criminal cases. RCW 13.04.033(1) has no counterpart in adult criminal cases. Adult cases

focus on whether an appeal by the state is specifically allowed by statute, court rule, or case law. Those cases turn to RCW 9.94A.585(2) and RAP 2.2(b)(6) allowing appeals of sentences "outside the standard range." See *State v. Williams*, 112 Wash.App. 171, 48 P.3d 354 (2002). They also deal with the prohibition against appealing standard range sentences in RCW 9.94A.585(1) and the "procedural" exception. See *State v. Mail*, 121 Wash.2d 707, 712, 854 P.2d 1042 (1993); *State v. Bernhard*, 108 Wash.2d 527, 530, 741 P.2d 1 (1987), overruled in part on other grounds by *State v. Shove*, 113 Wash.2d 83, 85, 776 P.2d 132 (1989). But since RCW 13.04.033(1) creates a general right to appeal in juvenile cases, we need not broach those issues here. The breadth of the phrase "any person aggrieved" compels this conclusion despite the long American tradition disfavoring criminal appeals by the government. *State v. Johnson*, 24 Wash. 75, 77, 63 P. 1124 (1901). Prudential concerns, *Arizona v. Manypenny*, 451 U.S. 232, 246, 101 S. Ct. 1657, 68 L. Ed. 2d 58 (1981), and the humanity of the law require legislators to speak in a clear voice when giving the government the right to appeal a criminal case. *United States v. Sanges*, 144 U.S. 310, 315-16, 12 S. Ct. 609, 36 L. Ed. 445 (1892) (citing *State v. Jones*, 7 Ga. 422, 425 (1849)). "Any person aggrieved" is sufficiently clear to allow the state to appeal.

(2)

The next question is whether the juvenile court erred by ordering restitution for only out-of-pocket costs. Restitution is mandatory for juvenile offenses: In its dispositional order, the court shall require the respondent to make restitution to any persons who have suffered loss or damage as a result of the offense committed by the respondent.... RCW 13.40.190(1). The statute uses the mandatory term "shall" to direct the court to order restitution. In 1997 the legislature deleted language from this statute that gave the court the sort of discretion it purported to exercise in this case: The court may not require the respondent to pay full or partial restitution if the respondent reasonably satisfies the court that he or she does not have the means to make full or partial restitution and could not reasonably acquire the means to pay such restitution over a ten year period. Laws of 1997, ch. 338, § 29(1). This sentence used the discretionary term "may." See *State v. Martin*, 137 Wash.2d 149, 154, 969 P.2d 450 (1999) ("shall" and "may" in same statute). Deleting this sentence removed the juvenile court's discretion to order only partial restitution based on ability to pay. "[A]ny persons who have suffered loss" are entitled to restitution under RCW 13.40.190(1). In addition, "restitution" for purposes of the Juvenile Justice Act of 1977 is defined as "reimbursement by the offender to the victim." RCW 13.40.020(22). Thus, to be entitled to restitution one must be both a "person" and a "victim." Neither term is defined by the Juvenile Justice Act of 1977. *State v. Sanchez*, 73 Wash.App. 486, 488-90, 869 P.2d 1133 (1994), is exactly on point, and held that an auto insurer is a "person" and a "victim" entitled to juvenile restitution. We have already mentioned the common law meaning of "person." *Sanchez* appropriately held that it includes insurance companies. *Id.* at 489, 869 P.2d 1133. *Sanchez* also noted the term "victim" in the definition of "restitution." *Id.* at 488, 869 P.2d 1133. A.M.R. and T.J.Z. contend that the ordinary meaning of "victim" does not include third party victims. We have

held that third parties *793 may be "victims" under the Sentencing Reform Act of 1981, chapter 9.94A RCW. *State v. Davison*, 116 Wash.2d 917, 920-21, 809 P.2d 1374 (1991) (City of Seattle a "victim" where city paid wages to assault victim unable to work for four months). The statutory definition was: "any person who has sustained physical or financial injury to person or property as a direct result of the crime charged." *Id.* (quoting former RCW 9.94A.030(28)). However, the same word can mean different things in different statutes. *Int'l Ass'n of Fire Fighters, Local 46 v. City of Everett*, 146 Wash.2d 29, 39-40, 42 P.3d 1265 (2002). Dictionaries do not qualify the term "victim" as A.M.R. and T.J.Z. suggest. The definition quoted in their brief defines the word as "a person who is injured ... as the result of an occurrence." *Pet'rs' Suppl. Br.* at 15 (quoting *Oxford American Dictionary* 773 (1980)). Unlike the statutory definition in *Davison*, this one is not limited to "physical" or "financial" injuries, nor to "direct" results of "crimes charged." This definition includes any "injury" that "results" in any way from any "occurrence." Similarly broad definitions are found in other dictionaries, including *Webster's Third New International Dictionary of the English Language* (1986) and *The American Heritage Dictionary of the English Language* (3d ed.1992). The insurance companies are "victims" entitled to restitution.

CONCLUSION

Because the Basic Juvenile Court Act provides that "any person aggrieved" may appeal, we hold that the state may appeal these juvenile restitution orders, and that restitution must be made to "any persons who have suffered loss." We affirm the Court of Appeals, and remand the cases to the juvenile court with instructions to enter restitution orders consistent with this opinion, subject to sufficient proof of loss. ALEXANDER, C.J., SMITH, JOHNSON, MADSEN, SANDERS, IRELAND, BRIDGE, and CHAMBERS, JJ., concur.