An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-799

Filed: 20 March 2018

Durham County, No. 16 JB 174

IN THE MATTER OF: N.D.

Appeal by Juvenile from orders entered 28 February 2017 by Judge James T. Hill in Durham County District Court. Heard in the Court of Appeals 12 March 2018.

Attorney General Joshua H. Stein, by Assistant Attorney General Ryan Zellar, for the State.

Leslie Rawls for Juvenile-Appellant.

INMAN, Judge.

Juvenile N.D. ("Nathan")[1] appeals from the trial court's adjudication and disposition orders requiring him to pay $200.00 in restitution after he was adjudicated delinquent for felony possession of stolen goods. Because the trial court failed to make any findings regarding whether restitution was in the juvenile's best interest, we reverse the portion of the disposition order imposing restitution and

[1]A pseudonym is used to protect the identity of the juvenile.

remand to the trial court for further findings of fact. We affirm the adjudication order.

Factual and Procedural

On 9 December 2016, the Durham County Sheriff's Office filed a juvenile petition alleging that Nathan was delinquent in that he committed the offenses of felonious breaking or entering, felonious larceny, and felonious possession of stolen goods. At a hearing held 28 February 2017, Nathan admitted to the charge of felonious possession of stolen goods and, in exchange, the State dismissed the remaining two charges. The trial court entered an order adjudicating Nathan delinquent. In its disposition order, entered the same day, the trial court imposed a Level 2 disposition, placed Nathan on probation for 12 months, and ordered restitution in the amount of $200.00, payable within 10 months. Nathan timely appealed from both the adjudication and disposition orders.

Analysis

The sole issue on appeal is whether the trial court made adequate findings of fact to support its order that Nathan pay $200.00 in restitution. Nathan argues, and the State concedes, that the trial court failed to make a finding that payment of restitution was in the juvenile's best interest. We agree.

After adjudicating a juvenile delinquent, a trial court may "[r]equire restitution, full or partial, up to five hundred dollars ($500.00), payable within a 12-

month period to any person who has suffered loss or damage as a result of the offense committed by the juvenile." N.C. Gen. Stat. § 7B-2506(4) (2015). In order to be valid, "[a]n order of restitution must be supported by the record, which demonstrates that the condition is fair and reasonable, related to the needs of the child, and calculated to promote the best interest of the juvenile in conformity with the avowed policy of the State in its relation with juveniles." *In re Schrimpsher*, 143 N.C. App. 461, 464, 546 S.E.2d 407, 410 (2001) (citing *In re Berry,* 33 N.C. App. 356, 360, 235 S.E.2d 278, 280 (1977)). Thus, "a requirement that a juvenile make restitution as a condition of probation must be supported by the record and appropriate findings of fact which demonstrate that the best interest of the juvenile will be promoted by the enforcement of the condition." *Berry,* 33 N.C. App. at 360, 235 S.E.2d at 280-81.

The trial court's disposition order fails to contain any findings of fact supporting its order of restitution. At the hearing, the trial court stated that "actions have consequences" and that "hopefully, [Nathan] will find the nastiest, dirtiest job possible." However, these statements do not demonstrate that the trial court specifically considered whether restitution was in Nathan's best interest and the court failed to make any such findings in its disposition order. *See In re Heil*, 145 N.C. App. 24, 32, 550 S.E.2d 815, 821 (2001) (holding that the juvenile court "erred in failing to consider or make findings concerning whether the restitution award was in [the] juvenile's best interest and whether the juvenile . . . had the ability to pay").

We therefore reverse the restitution portion of the disposition order and remand for further findings of fact in support of the order of restitution. *In re D.M.B.*, 196 N.C. App. 775, 778-79, 676 S.E.2d 66, 69 (2009) (remanding to the trial court to make "appropriate findings of fact to support an order of restitution"). The disposition order is affirmed in all other respects. Nathan does not raise any issue with the adjudication order and that order is affirmed.

Conclusion

For the foregoing reasons, we affirm the trial court's adjudication and affirm the disposition in part and reverse and remand in part.

AFFIRMED IN PART, REVERSED AND REMANDED IN PART.

Judges BRYANT and HUNTER concur.

Report per Rule 30(e).