## IN THE COURT OF APPEALS FIRST APPELLATE DISTRICT OF OHIO HAMILTON COUNTY, OHIO

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IN RE: R.C.

APPEAL NOS. C-180327
C-180328
TRIAL NOS. 18-1541Z
18-1547Z
JUDGMENT ENTRY.

We consider these appeals on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

R.C. admitted to conduct that, if committed by an adult, would have constituted two counts of aggravated robbery, each with two firearm specifications. In exchange for admitting to all of the charges, the state agreed to withdraw the motions for relinquishment of jurisdiction to the general division of the common pleas court. As part of the plea bargain, R.C. agreed to serve three years on the gun specification for brandishing, one year on the specification for possessing a gun, to be served concurrently, and one year on the aggravated robbery to be served consecutively to the three-year term for a total sentence of four years to the Department of Youth Services.

R.C. admitted to entering a bootleg cab driven by Josh Meadows and stealing the car at gunpoint. In the second incident, he admitted to stealing the car of Elizabeth Coulter while brandishing a gun and crashing the car into a tree. The court accepted his admissions, adjudicated him delinquent, and imposed the agreed upon sentence. The court also imposed restitution in the amount of \$2,700 to Coulter for the costs to repair her car.

R.C. now appeals raising two assignments of error. First, R.C. alleges that his counsel was ineffective for failing to determine whether the victim's car insurance affected the restitution amount. To prevail on an ineffective-assistance-of-counsel claim, R.C. must show that trial counsel's performance fell below an objective standard of reasonableness, and that he was prejudiced as a result. *Strickland v. Washington*, 466 U.S. 668, 687-688, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). In order to demonstrate prejudice, R.C. must establish that, but for counsel's errors, there is a reasonable probability that the result of the proceeding would have been different. *State v. Burke*, 97 Ohio St.3d 55, 2002-Ohio-5310, 776 N.E.2d 79,  $\P$  6. The failure to make an adequate showing on either prong is fatal to an ineffective-assistance-of-counsel claim. *See Strickland* at 697.

Before imposing restitution, the trial court asked the victim if the \$2,700 were her out-of-pocket expenses, and the victim responded that she only had liability insurance. Based on this record, there is no evidence that the restitution amount exceeded the economic loss suffered by the victim. Therefore, R.C. has failed to demonstrate that there is a reasonable probability that the restitution order would have been different had counsel challenged the amount. We overrule the first assignment of error.

Next, R.C. argues that the juvenile court committed plain error when it failed to make a finding regarding R.C.'s eligibility for a three-year commitment because he did not display or brandish the firearm. However, as part of his plea agreement, he admitted that he either displayed or brandished a firearm while the offenses were being committed, and he agreed to the three-year commitment for the firearm specification.

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Therefore, he waived the right to challenge those allegations on appeal, and the juvenile court did not err by committing him to three years on the gun specification. *See In re B.H.*, 1st Dist. Hamilton Nos. C-180108 and C-180109, 2018-Ohio-3350, ¶ 8-9. Accordingly, we overrule his second assignment of error and affirm the judgments of the juvenile court.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

## ZAYAS, P.J., BERGERON and CROUSE, JJ.

To the clerk:

Enter upon the journal of the court on July 10, 2019

per order of the court \_\_\_\_\_

Presiding Judge