

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

IN RE: D.F. : APPEAL NO. C-150481  
: TRIAL NO. 15-2793Z  
: *JUDGMENT ENTRY.*

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

This is an appeal of a juvenile court's restitution order. D.F. argues that the court erred when it ordered him to pay \$1,200 to the man he and codefendants robbed. We affirm the judgment of the trial court.

D.F. pled guilty to a charge of robbery. According to the state, D.F. and a group of boys tackled George Burnett, went through his pockets and took items from him. Following disposition, D.F. filed a motion for a hearing on restitution. *See* R.C. 2152.20(A)(3). At the hearing, Mr. Burnett testified that the boys had taken his cell phone, valued at \$300, cash in the amount of \$300 and two winning lottery tickets that were worth \$600. At the conclusion of the hearing, the court ordered that D.F. pay restitution of \$1,200.

D.F. does not challenge whether he owes restitution to Burnett. But he disputes the amount awarded for the cash and for the lottery tickets. As to the cash, Mr. Burnett told the court that he always had \$100 in "old" 20-dollar bills in his wallet and that, at the time of the robbery, he had an additional \$200 with him. D.F. takes some of Burnett's statements about the cash out of context and argues that Burnett was unclear about the exact amount. But when read in its entirety, the transcript supports Burnett's claim that the boys had taken \$300 in cash from him.

Along with the cash, Mr. Burnett said he had had two winning Illinois lottery tickets in his wallet. He explained that he had bought the tickets in Illinois on February 25 and, as always, played the number “213”—his mother’s nursing-home room number. That number was picked on the night of February 25. According to Burnett, the winning tickets were worth a total of \$600, which he planned on collecting the next time he was in Illinois. D.F. argues that the value of the tickets was too uncertain. He makes a legal argument that the lottery tickets are worthless until validated by the Illinois lottery commission. But he presented no evidence that the lottery tickets taken from Burnett were not valid. Nor did he present any evidence contradicting Burnett’s statement about the tickets’ payoff amount. The court was entitled to believe Burnett, and the evidence presented was sufficient to support the \$600 award for the stolen lottery tickets.

In addition to challenging the sufficiency of the evidence in support of Burnett’s loss, D.F. also maintains that the court improperly shifted the burden of proof from Burnett and to him. As the victim, Mr. Burnett had the burden to prove by a preponderance of the evidence the amount of loss suffered. *See State v. Olson*, 2d Dist. Montgomery No. 25452, 2013-Ohio-4403, ¶ 8. D.F. selectively cites from the transcript to suggest that the court placed the burden of proof on him. But our review of the transcript does not reveal that the burden was shifted improperly. Mr. Burnett came forward with what the court found to be credible evidence of the value of his property. And the court simply explained that, if D.F. disagreed with that amount, he needed to come forward with evidence in support of a different amount.

The juvenile court’s determination of restitution was supported by the record. D.F.’s assignment of error is overruled, and we affirm the judgment of the trial court.

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

**CUNNINGHAM, P.J., DEWINE and MOCK, JJ.**

**OHIO FIRST DISTRICT COURT OF APPEALS**

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To the clerk:

Enter upon the journal of the court on May 6, 2016  
per order of the court \_\_\_\_\_.

Presiding Judge