



**[State v. L.G.S.-S., 307 Or App 208 \(2020\)](#)**

**Washington County; Michele C. Rini, Judge pro tempore**

In this delinquency case, the youth admitted committing acts that, if committed by an adult, would constitute two counts of first-degree burglary in exchange for dismissal of all other counts alleged by the state. The youth's plea included a "victim list" that listed six victims of the youth's conduct, none of which was Safeco Insurance. At the pretrial hearing at which the youth submitted his plea, the youth admitted to liability for restitution on all counts, including those dismissed, but did not stipulate to any amounts because the state had not proposed any. Although the state represented at that hearing that it was not anticipating restitution, it indicated at a dispositional hearing two weeks later that restitution would be sought. The state presented no evidence about the amount of restitution or for which victim or victims, representing that it was "in the works right now with the insurance company." The court entered a jurisdiction and disposition judgment that included the same victim list attached to the plea agreement and set a restitution hearing for five weeks later. The state requested restitution for Safeco Insurance, which was not named as a victim in the judgment, and the youth objected, arguing that adding a victim and a restitution request after adjudication violated ORS 419C.450. The juvenile court rejected the youth's argument and entered a supplemental judgment awarding Safeco Insurance restitution in the amount of \$2,184.86. The youth appealed.

The Court of Appeals reversed, concluding that [State v. M.A.S., 302 Or App 687 \(2020\)](#) controlled. In *M.A.S.*, the Court of Appeals examined the requirement in ORS 419C.450 that "[t]he district attorney shall investigate and present to the court, prior to or at the time of adjudication, evidence of the nature and amount of the injury, loss or damage." *M.A.S.*, 302 Or App at 705. The court held that the term "adjudication" means the "determination of jurisdiction over a youth based on a finding of delinquency" and that, as such, ORS 419C.450 required the state to present its restitution evidence before the court concluded the adjudicatory hearing. Similarly, in the instant case, the state neither presented evidence of injury, loss, or damage to Safeco

Insurance nor requested restitution on behalf of a named victim to whom Safeco Insurance had subrogation rights at or prior to the time that the youth was adjudicated—that is, when the court accepted the youth’s plea and ruled that it had jurisdiction. Because the state did not meet ORS 419C.450’s timing requirement to seek restitution for Safeco Insurance, the court could not award it in the supplemental judgment.