

85-00116
OFFICE OF THE ATTORNEY GENERAL



CHARLES A. GRADDICK
ATTORNEY GENERAL
STATE OF ALABAMA

ADMINISTRATIVE BUILDING
64 NORTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (205) 834-5150

JAMES R. SOLOMON, JR.
DEPUTY ATTORNEY GENERAL

H. WARD MCMILLAN, JR.
EXECUTIVE ASSISTANT
TO THE ATTORNEY GENERAL

WALTER S. TURNER
CHIEF ASSISTANT ATTORNEY GENERAL

JANIE NOBLES
EXECUTIVE ASSISTANT

DEC 10 1984

Honorable John F. Butler
Circuit Judge
James T. Strickland Youth
Center
2315 Costarides Street
Mobile, Alabama 36617-2498

Probate Judges - Judgments -
Lis Pendens - Juveniles

A juvenile court judge cannot issue a money judgment to a victim recordable in circuit court and Lis Pendens of probate court for unpaid restitution when the juvenile has become over 19 years of age and the restitution remains unpaid.

Dear Judge Butler:

Reference is made to your request for an opinion from the Attorney General regarding the following question:

"May a Juvenile Judge issue a money judgment to a victim recordable in the circuit court and Lis Pendens of Probate Court for the balance of restitution unpaid by a juvenile in the situation where the defendant juvenile is now over the age of 19, an adult, and the restitution remains unpaid?"

Your question is to be answered in the negative.

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The statutory provisions regarding restitution to victims of crimes are found at Code of Alabama 1975, Section 15-18-65 through Section 15-18-78. As stated in Section 15-18-67, a restitution hearing is held when a defendant has been convicted of criminal activity or conduct which has resulted in pecuniary loss damages to a victim. At this hearing the court determines the amount or type of restitution the defendant is to make to the victim and issues a order therefor. The defendant along with the victim and the district attorney has a right to be present at this hearing. Such restitution order in a criminal case is a final judgment and has all the force and effect of a final judgment in a civil action under the laws of the State of Alabama, as stated in Section 15-18-78. Thus, this order issued by the juvenile court for the juvenile defendant to pay restitution to a victim was a final judgment.

For an order to be issued and recordable in the circuit court for a juvenile or former juvenile to pay damages to a victim through the circuit court, a separate action must be instituted against the juvenile or former juvenile in that court for damages. In the alternative, contempt proceedings may be instituted in the Juvenile Court under Code of Alabama 1975, Section 12-15-12 when a juvenile who has been ordered to pay restitution fails to do so.

Unfortunately under the present laws, a money judgment cannot be issued by a Juvenile Court. It may be that the Legislature will provide for this in the future.

Therefore, in answer to your question a juvenile court judge cannot issue a money judgment to a victim recordable in circuit court and Lis Pendens of probate court for unpaid restitution when the juvenile has become over 19 years of age and the restitution remains unpaid.

I hope that your question has been adequately answered.

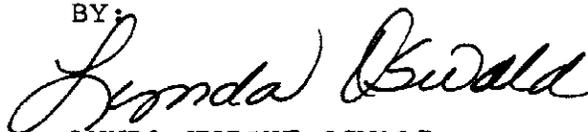
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If our office can be of assistance to you in the future,
please let us know.

Sincerely,

CHARLES A. GRADDICK
ATTORNEY GENERAL

BY:

A handwritten signature in cursive script, reading "Lynda Knight Oswald". The signature is written in black ink and is positioned above the typed name and title.

LYNDA KNIGHT OSWALD
ASSISTANT ATTORNEY GENERAL

CAG:lo:w