This opinion is nonprecedential except as provided by Minn. R. Civ. App. P. 136.01, subd. 1(c).

STATE OF MINNESOTA
IN COURT OF APPEALS
A25-0811

In the Matter of the Welfare of: K. A. A., Child.

Filed December 29, 2025
Reversed and remanded
Larkin, Judge

Becker County District Court
File No. 03-JV-24-1049

Cathryn Middlebrook, Chief Appellate Public Defender, Sara L. Martin, Assistant Public Defender, St. Paul, Minnesota (for appellant KAA)

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Brian McDonald, Becker County Attorney, Devin J. Johnson, Assistant County Attorney, Detroit Lakes, Minnesota (for respondent Becker County)

Considered and decided by Reyes, Presiding Judge; Larkin, Judge; and Kirk, Judge.*

NONPRECEDENTIAL OPINION

LARKIN, Judge

Appellant challenges the district court's restitution order in a juvenile-delinquency case. Because the district court failed to make findings to support its restitution order and because K.A.A. was deprived of her right to effective assistance of counsel, we reverse and remand.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

FACTS

In June 2024, respondent State of Minnesota filed a juvenile-delinquency petition alleging that appellant K.A.A. had used a metal pipe to cause over $1,000 in damage to the victim's car. In October 2024, K.A.A. pleaded guilty to the delinquency charge. The district court scheduled a disposition hearing and ordered K.A.A. to participate in a pre-disposition report.

The victim requested restitution and submitted an affidavit in support of the request, which included an estimate for cosmetic repairs from an autobody shop. The estimate indicates that the victim's car was approximately 20 years old and had nearly 200,000 miles on it. The affidavit and estimate indicated that, although the vehicle was insured, the damage was not covered and it would cost nearly $9,000.00 to repair the cosmetic damage to the vehicle.

The confidential pre-disposition report described K.A.A.'s personal and economic circumstances, which were relevant to the restitution determination.[1] At a February 2025 disposition hearing, K.A.A.'s counsel asked the court to follow the recommendations of the pre-disposition report, except for the recommendations regarding restitution.

[1] The district court record in this case has been filed as confidential. Materials filed as confidential in the district court remain nonpublic on appeal. Minn. R. Civ. App. P. 112.02, subd. 1. To the extent possible, we mention the contents of the confidential documents only as necessary to address the issues in this appeal. *See* Minn. R. Pub. Access to Recs. of Jud. Branch 4, subd. 4 (stating that we are not precluded "from mentioning the contents" of confidential or sealed documents if the information is "relevant to the particular issues or legal argument being addressed in the proceeding").

The district court continued the matter without an adjudication of delinquency, placed K.A.A. on unsupervised probation for up to 90 days, and ordered K.A.A. to write an essay regarding how she could have handled her conflict with the victim differently. The district court ordered that the continuance without adjudication was contingent on K.A.A. making any restitution payments ordered by the court. The district court stated that it would keep the restitution issue open for 30 days so K.A.A. could file an affidavit in compliance with the restitution statute. The district court informed K.A.A. that restitution would be ordered if a challenge was not properly filed.

In March 2025, K.A.A.'s counsel timely filed an affidavit on K.A.A.'s behalf, challenging the restitution request and seeking a restitution hearing. At that point, K.A.A. was 18 years old. The affidavit was not signed by K.A.A. Instead, it was signed by K.A.A.'s mother. The affidavit set forth relevant information about K.A.A.'s age, education, employment, and parental responsibilities.

In April 2025, the district court held a hearing to address the restitution issue. K.A.A. did not appear at the hearing. Her attorney informed the court that K.A.A. was four hours away with her child and that K.A.A. thought she could appear remotely on Zoom.[2] K.A.A.'s attorney requested a continuance, and the state objected.

The district court explained that a restitution hearing is a critical stage and that it could not hold a restitution hearing in K.A.A.'s absence. But the district court concluded that, because the affidavit that counsel submitted was signed by K.A.A.'s mother and not

[2] K.A.A. had been allowed to appear remotely at prior hearings in the case.

by K.A.A., counsel had not complied with a statutory requirement for an affidavit from the offender. The district court therefore ruled that K.A.A.'s restitution challenge had not been perfected and "dismiss[ed]" the imperfect challenge.

In April 2025, the district court filed a "Criminal Restitution Order" requiring K.A.A. to pay restitution in the amount of $8,963.83. The order stated that a due date would be ordered by the court or a payment plan would be developed by K.A.A. and incorporated into a probation agreement. The district court also filed an "Amended Juvenile Disposition Order" indicating that K.A.A.'s offense was continued without an adjudication, that successful completion of probation would result in dismissal, that K.A.A. was placed on unsupervised probation for 90 days starting in late February 2025, that K.A.A. was required to write an essay, and that restitution in the amount of $8,963.83 was due in early January 2026.

K.A.A. appeals the district court's restitution order.

DECISION

I.

K.A.A. contends that the district court erred by failing to make certain findings that are required to support a restitution order. Specifically, K.A.A. argues that the district court did not make written or oral findings to show that it considered K.A.A.'s ability to pay restitution or that the amount ordered was reasonable and necessary for K.A.A.'s rehabilitation. Although the state concedes that the district court failed to make the required findings, we have an independent obligation to decide cases according to law. *State v. Hannuksela*, 452 N.W.2d 668, 673 n.7 (Minn. 1990).

"In juvenile matters, restitution is governed by both the restitution provision of the delinquency statutes . . . and the general restitution statute." *In re Welfare of H.A.D.*, 764 N.W.2d 64, 66 (Minn. 2009). In juvenile-delinquency cases, restitution must be "reasonable." Minn. Stat. § 260B.198, subd. 1(5) (2024). The Minnesota Rules of Juvenile Delinquency Procedure provide that a

> dispositional order made by the court shall contain written findings of fact to support the disposition ordered and shall set forth in writing the following information: (1) why public safety and the best interests of the child are served by the disposition ordered; (2) what alternative dispositions were recommended to the court and why such recommendations were not ordered.

Minn. R. Juv. Delinq. P. 15.05, subd. 2(A). Written findings are required "to show that the district court considered vital standards and to enable the parties to understand the court's decision." *In re Welfare of I.N.A.*, 902 N.W.2d 635, 642 (Minn. App. 2017) (quotation omitted), *rev. denied* (Minn. Nov. 28, 2017).

In determining whether to order restitution and the amount of restitution under the general restitution statute, the district court must consider: "(1) the amount of economic loss sustained by the victim as a result of the offense; and (2) the income, resources, and obligations of the defendant." Minn. Stat. § 611A.045, subd. 1(a) (2024). The supreme court has determined that "the legislature intended to give the courts wide flexibility to structure restitution orders that take into account a defendant's ability to pay, including a reduced monthly payment that is within the defendant's means." *I.N.A.*, 902 N.W.2d at 643 (quotations and citations omitted).

When ordering restitution under Minn. Stat. § 611A.045, subd. 1(a), "a district court must expressly state, either orally or in writing, that it considered the defendant's income, resources, and obligations." *State v. Wigham*, 967 N.W.2d 657, 659 (Minn. 2021). "When the goal of restitution is to rehabilitate, the amount of restitution should be set according to the defendant's ability to pay." *Id.* (quotation omitted). A rehabilitative goal is evident in the juvenile-delinquency context:

> The purpose of the laws relating to children alleged or adjudicated to be delinquent is to promote the public safety and reduce juvenile delinquency by maintaining the integrity of the substantive law prohibiting certain behavior and by developing individual responsibility for lawful behavior. This purpose should be pursued through means that are fair and just, that recognize the unique characteristics and needs of children, and that give children access to opportunities for personal and social growth.

Minn. Stat. § 260B.001, subd. 2 (2024).

"The district court has discretion to award restitution, and we will not reverse unless the district court abuses that discretion." *State v. Rodriguez*, 889 N.W.2d 332, 335 (Minn. App. 2017). But we have "repeatedly held that inadequate written findings in a juvenile-disposition order constitute reversible error." *I.N.A.*, 902 N.W.2d at 642.

In *I.N.A.*, we determined that the district court failed to make sufficient factual findings to support a restitution order in a juvenile-delinquency case. 902 N.W.2d at 642. As to the relevant rule of juvenile procedure, "the district court found that ordering I.N.A. to pay smaller monthly installments of restitution serve[d] to rehabilitate I.N.A. by demonstrating the amount of time and money that goes into maintaining our cities' public

park systems." *Id.* (quotation marks omitted). However, the district court's findings did not explicitly address the factors required under rule 15.05, subdivision 2(A). *Id.*; *see also* Minn. R. Juv. Delinq. P. 15.05, subd. 2(A) (requiring written findings explaining why public safety and the best interests of the child are served by the disposition ordered, what alternative dispositions were recommended, and why those alternatives were not ordered). We therefore concluded that remand was necessary for the district court to address the rule 15.05 factors. *I.N.A.*, 902 N.W.2d at 642.

As to the restitution statute, the district court in *I.N.A.* determined that restitution would serve a "rehabilitative function." *Id.* at 643. Although the district court made findings stating that I.N.A. had the ability to make payments in smaller monthly amounts, the district court did not indicate "how much [it] expect[ed] I.N.A. to actually pay per month, and over what period of time." *Id.* Because we could not ascertain "the actual amount that the district court ordered I.N.A. to pay in smaller monthly installments or whether a civil judgment [would] be docketed," we could not determine "whether the amount of restitution was reasonable and set according to I.N.A.'s ability to pay." *Id.* at 644 (quotation marks omitted). We therefore remanded for the district court to "(1) specify the amount it expect[ed] I.N.A. to pay monthly and over what period of time," (2) to "determine whether a remaining balance will be docketed for civil judgment and, if so, what amount," and (3) to "assess I.N.A.'s ability to pay those specific amounts given his income, resources, and obligations." *Id.*

In this case, the district court ordered K.A.A. to pay $8,963.83 without any findings regarding the relevant criteria. There are no findings indicating that the district court

considered K.A.A.'s ability to pay as required under Minn. Stat. § 611A.045, subd. 1(a). The lack of such findings is troubling given that the record contains relevant information regarding K.A.A.'s economic circumstances related to her age, education, employment, and parental obligations.

In addition, there are no findings indicating that the district court considered whether the payment of restitution of $8,963.83 in less than approximately eight months was reasonable, even though the continuance without adjudication was contingent on payment in full. *See* Minn. Stat. § 260B.198, subd. 1(5) ("[I]f the child is found to have violated a state or local law or ordinance which has resulted in damage to the person or property of another, the court may order the child to make *reasonable* restitution for such damage." (emphasis added)). Lastly, there are no findings indicating that the district court considered "why public safety and the best interests of the child [we]re served by the disposition ordered" as required under Minn. R. Juv. Delinq. P. 15.05, subd. 2(A).

In sum, the district court failed to make the factual findings necessary to support its restitution order and to enable us to determine whether the district court properly exercised its discretion. Thus, a remand for findings is necessary. *See I.N.A.*, 902 N.W.2d at 644 (stating that because of the lack of findings, we were "incapable on review of determining whether the amount of restitution was reasonable and set according to I.N.A.'s ability to pay").

II.

K.A.A. next contends that the district court erred by holding a restitution hearing in her absence. Under the Minnesota Rules of Juvenile Delinquency Procedure, a "child shall

have the right to be present at all hearings." Minn. R. Juv. Delinq. P. 2.03, subd. 1. And, criminal defendants have a constitutional right to be present at all critical stages of the proceedings—including restitution hearings. *Rodriguez*, 889 N.W.2d at 336.

But, "[a]s with other constitutional rights, the right to be present may be waived by a defendant." *Id.* "A defendant may expressly waive the right to be present or the district court may imply waiver from the defendant's conduct, such as his absence from a hearing without explanation." *Id.* The same is generally true regarding hearings in juvenile-delinquency actions. *See* Minn. R. Juv. Delinq. P. 2.03, subd. 1 (stating that a "child is deemed to waive the right to be present if the child voluntarily and without justification is absent after the hearing has commenced or if the child disrupts the proceedings").

K.A.A. argues that, although she was not present at the April 2025 hearing, she did not waive her right to be present at that "restitution" hearing. But the record shows that the district court did not hold a restitution hearing in April 2025. To the contrary, at that hearing, the district court stated that a restitution hearing is a critical stage and that the court could not hold a restitution hearing in K.A.A.'s absence. The district court then ruled that K.A.A. had waived a restitution challenge by failing to submit a signed affidavit as required by statute. The district court therefore did not consider K.A.A.'s restitution challenge. *See* Minn. Stat. § 611A.045, subd. 3(a) (2024) (requiring filing of "a detailed sworn affidavit of the offender"). Instead, the district court dismissed K.A.A.'s imperfect restitution challenge and ordered the amount of restitution that the victim had requested.

In sum, the district court did not hold a restitution hearing in K.A.A.'s absence.

III.

Finally, K.A.A. contends that her right to effective assistance of counsel was violated in the restitution proceeding. Juvenile-delinquency proceedings "must measure up to the essentials of due process and fair treatment." *In re Welfare of B.A.H.*, 845 N.W.2d 158, 163 (Minn. 2014) (quoting *Application of Gault*, 387 U.S. 1, 30 (1967)). As part of that due-process right, juveniles have the right to effective assistance of counsel in delinquency proceedings. *See Gault*, 387 U.S. at 41. We will consider an ineffective-assistance-of-counsel claim for the first time on appeal if the record is adequately developed. *Voorhees v. State*, 627 N.W.2d 642, 649 (Minn. 2001). The record is adequate to determine the limited ineffective-assistance-of-counsel issue in this case.

When reviewing a claim that counsel provided ineffective assistance, we use the two-prong test articulated in *Strickland v. Washington*, 466 U.S. 668, 687 (1984). *State v. Ellis-Strong*, 899 N.W.2d 531, 535 (Minn. App. 2017); *see State v. Cram*, 718 N.W.2d 898, 906 (Minn. 2006) (applying *Strickland* to claim of ineffective assistance regarding restitution). The *Strickland* test requires a showing that "counsel's representation fell below an objective standard of reasonableness" and that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *State v. Mouelle*, 922 N.W.2d 706, 715 (Minn. 2019) (quotations omitted).

The "objective standard is defined as representation by an attorney exercising the customary skills and diligence that a reasonably competent attorney would perform under similar circumstances." *Opsahl v. State*, 677 N.W.2d 414, 421 (Minn. 2004) (quotation omitted). "'An attorney's ignorance of a point of law that is fundamental to his case

combined with his failure to perform basic research on that point is a quintessential example of unreasonable performance under *Strickland*.'" *State v. Babineau*, 23 N.W.3d 396, 411 (Minn. App. 2025) (quoting *Hinton v. Alabama*, 571 U.S. 263, 274 (2014)). "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694.

"Application of the *Strickland* test involves a mixed question of law and fact, which we review de novo." *Mouelle*, 922 N.W.2d at 715.

Objectively Unreasonable

K.A.A. asserts that her attorney's conduct fell below an objective standard of reasonableness because he did not comply with a statutory affidavit requirement that was necessary to preserve her restitution challenge. Minn. Stat. § 611A.045, subd. 3(a), "allows a defendant to challenge a district court's restitution award and outlines the requirements for such challenges." *State v. Haynes*, 24 N.W.3d 313, 316 (Minn. 2025). Under the statute, an offender "bears the initial burden of production to challenge a restitution request." *State v. Smith*, 876 N.W.2d 310, 336 (Minn. 2016). The statute provides:

> This burden of production *must include a detailed sworn affidavit of the offender* setting forth all challenges to the restitution or items of restitution, and specifying all reasons justifying dollar amounts of restitution which differ from the amounts requested by the victim or victims. The affidavit must be served on the prosecuting attorney and the court at least five business days before the hearing. A dispute as to the proper amount or type of restitution must be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of loss sustained by a victim as a result of the offense and the appropriateness of a particular type of restitution is on the prosecution.

Minn. Stat. § 611A.045, subd. 3(a) (emphasis added).

In *Smith*, the Minnesota Supreme Court considered whether Smith had waived a restitution challenge by failing to timely file his supporting affidavit. 876 N.W.2d at 335. The supreme court reasoned that the statutory burden to serve an affidavit "on the prosecuting attorney and the court at least five business days before the hearing" is "plain and unambiguous." *Id.* at 336 (emphasis omitted) (quotation omitted). Because Smith failed to submit his affidavit at least five business days before the hearing, the supreme court concluded that, "[a]pplying the plain words of the statute, the district court erred when it determined that Smith's affidavit was timely." *Id.*

We similarly conclude that the statutory language requiring "a detailed sworn *affidavit of the offender*" is plain and unambiguous. Minn. Stat. § 611A.045, subd. 3(a) (emphasis added). Yet, K.A.A.'s attorney did not file an affidavit signed by K.A.A. K.A.A.'s attorney did not offer any explanation for his failure to submit an affidavit signed by K.A.A., other than his ordinary practice to have the parent sign a juvenile offender's restitution affidavit. For example, the attorney did not suggest that his failure was due to a lack of contact with K.A.A. In fact, the attorney indicated that he had been in contact with K.A.A., including on the day of the April 2025 hearing. Nor did K.A.A.'s attorney argue that his approach of having a juvenile offender's parent sign the affidavit—instead of the offender—complied with the need for "a detailed sworn affidavit of the offender." Minn. Stat. § 611A.045, subd. 3(a).

Because K.A.A.'s attorney failed to comply with plain and unambiguous statutory language requiring an "affidavit of the offender," counsel effectively waived K.A.A.'s

ability to challenge restitution. *See Smith*, 876 N.W.2d at 336 (determining that Smith "waived his right to challenge the restitution" under Minn. Stat. § 611A.045, subd. 3(a), because he failed to comply with plain statutory language). Given the plain and unambiguous statutory language, submission of an affidavit from K.A.A.'s mother—instead of an affidavit from K.A.A.—was objectively unreasonable.

Reasonable Probability

K.A.A. asserts that, but for her counsel's failure to comply with the affidavit requirement, there is a reasonable probability that the result of the proceeding would have been different. K.A.A. argues that if counsel had complied with the affidavit requirement, the district court would have held a restitution hearing and heard evidence regarding her inability to pay, as set forth in the affidavit that counsel submitted. K.A.A. further argues that, if the court considered those facts, it is reasonably likely that the court would have ordered a lesser amount of restitution or would have included reasonable payment terms.

The state responds that K.A.A. cannot prove that there is a reasonable probability that the outcome would have been different if her attorney had filed the necessary affidavit. The state notes that the district court indicated at the April 2025 hearing that if K.A.A. had appeared at the hearing, it would have allowed K.A.A. to sign her mother's affidavit. Thus, the state argues that K.A.A.'s attorney's failure to submit an affidavit signed by K.A.A. was immaterial. We disagree. The issue is not whether K.A.A. could have corrected her counsel's error. The issue is whether "there is a reasonable probability that, *but for counsel's unprofessional errors*, the result of the proceeding would have been different." *Mouelle*, 922 N.W.2d at 715 (emphasis added) (quotation omitted).

If counsel had filed the necessary affidavit, the district court would have had two options when K.A.A. failed to appear at the April 2025 hearing. First, because K.A.A. had the right to be present at any restitution hearing, the district court could have granted her attorney's request to continue the hearing. Second, if the district court determined that K.A.A.'s absence was unjustifiable and that she therefore waived her right to be present, the district court could have held a restitution hearing in her absence. *See Rodriguez*, 889 N.W.2d at 335 ("The district court determined that Rodriguez had waived his appearance [at the contested restitution hearing] and moved forward with the hearing."). Either way, K.A.A.'s filing of an affidavit in compliance with the restitution statute would have preserved her right to challenge restitution, and the district court would have been required to consider that challenge.

We conclude there is a reasonable probability that, but for counsel's failure to submit the affidavit necessary to preserve K.A.A.'s restitution challenge, the result of the proceeding would have been different. Given the factors that the district court was required to consider before ordering restitution, K.A.A.'s economic circumstances, and the year and mileage of the cosmetically damaged vehicle, it is reasonably probable that the district court would not have found that K.A.A. had the ability to pay $8,963.83 in approximately eight months or that $8,963.83 was a reasonable amount of restitution that advanced public safety and was in K.A.A.'s best interests. In sum, K.A.A. was deprived of her right to effective assistance of counsel.

Because the district court failed to make findings to support its restitution order and because K.A.A. was deprived of her right to effective assistance of counsel, we reverse and

remand the district court's restitution order to allow K.A.A.—within 30 days of the date of this opinion—to challenge restitution as provided in Minn. Stat. § 611A.045, subd. 3. If K.A.A. does so, the district court shall schedule a restitution hearing and support any ensuing order for restitution with findings consistent with this opinion. If K.A.A. does not perfect a restitution challenge on remand, the district court need not hold a hearing, but it must make findings to support its restitution order and to enable further appellate review.

Reversed and remanded.