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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1347
A18-1372**

In the Matter of the Welfare of: C. A. B. H., Child.

**Filed April 22, 2019
Affirmed
Connolly, Judge**

Faribault County District Court
File Nos. 22-JV-17-170; 46-JV-17-139; 46-JV-17-162

Cathryn Middlebrook, Chief Appellate Public Defender, Leslie J. Rosenberg, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Kathryn M. Karjala-Curtis, Faribault County Attorney, Malinda Quittem, Assistant County Attorney; and

Terry W. Viesselman, Martin County Attorney, Adam L. Hinz, Assistant County Attorney, Fairmont, Minnesota (for respondent)

Considered and decided by Florey, Presiding Judge; Connolly, Judge; and Bjorkman, Judge.

UNPUBLISHED OPINION

CONNOLLY, Judge

In this consolidated appeal from a restitution order and an amended restitution order, appellant, a juvenile, challenges the amendment of restitution, arguing that the district court

erred in increasing the amount of restitution. Because we see no error in the district court's amendment of the amount of restitution, we affirm.

FACTS

In November 2017, appellant C.A.B.H., then a juvenile, admitted to charges of felony damage to property and misdemeanor theft. At a disposition and probation-violation hearing in January 2018, appellant was adjudicated delinquent and ordered to complete a program at Second Chances and to pay restitution of \$1,650, jointly and severally with a codefendant. Appellant did not object, restitution was not reserved, and appellant paid the \$1,650.

In February 2018, an affidavit of restitution was filed for \$2,564 (damage of \$3,064 less the victim's \$500 insurance deductible). At a restitution hearing in June 2018, a representative of the insurer said the amount sought was \$2,546.35. In July 2018, following a contested-restitution hearing, the district court granted the request for restitution in the amount of \$3,064 joint and several with the codefendant because the insurer's claim, made in February 2018, was not known to the district court when it first ordered restitution in January 2018.

Appellant challenges the amendment, arguing that the district court erred in amending the amount of restitution because restitution had not been reserved.

DECISION

“[D]etermining whether an item meets the statutory requirements for restitution is a question of law that is fully reviewable by the appellate court.” *State v. Nelson*, 796 N.W.2d 343, 346-47 (Minn. App. 2011) (quotation omitted).

The juvenile-delinquency statutes provide for restitution. See Minn. Stat. § 260B.198, subds. 1(5), 8 (2018) (allowing restitution in juvenile delinquency cases); Minn. Stat. §§ 611A.04, .045 (2018) (allowing restitution when an offender is found to be delinquent). When an offender is found delinquent:

[t]he [district] court may amend or issue an order of restitution after the sentencing or dispositional hearing if:

(1) the offender is on probation, committed to the commissioner of corrections, or on supervised release;

(2) sufficient evidence of a right to restitution has been submitted; and

(3) the true extent of the victim's loss or the loss of the Crime Victims Reparations Board was not known at the time of the sentencing or dispositional hearing, or hearing on the restitution request.

Minn. Stat. § 611A.04, subd. 1(b). The first two criteria for amendment were not disputed.

As to the third, at the end of the hearing, the district court said:

The court has had the opportunity to review the cases cited by both parties as well as the applicable restitution statute [and found] that [the victim's insurer] did incur a loss as a result of [appellant's] actions. I do not see any indication that the court was aware of that loss and . . . the only notice I see is that there was an affidavit of restitution filed by [the insurer], but that happened after disposition. So, the timing is such that I would have to find that the court could not have been aware of it as it was filed after the disposition hearing. . . . I see no indication that the losses were known to the court prior [to disposition].

Accordingly, I am going to amend the restitution order.

Appellant relies on *State v. Mередyk*, 754 N.W.2d 596 (Minn. App. 2008) to argue that, under Minn. Stat. § 611A.04, the district court had no authority to amend because restitution had not been reserved. But *Mередyk* does not support this proposition; *Mередyk* concluded that the district court lacked statutory authority to modify restitution because the

true extent of the victim's loss was known at the time of sentencing, not because of a failure to reserve restitution. *Meredyk*, 754 N.W.2d at 601.

Appellant also argues, as he argued at the contested restitution hearing, that the district court did know of the insurance company's claim at the disposition hearing because the predisposition report stated, "On 1/23/2018 [R.B.] with Martin County Victim Services informed this [corrections] agent that [one victim] is requesting \$650 in restitution and [another victim] is requesting \$1000 in restitution, for a total amount of \$1,650 in restitution." But this amount was exclusive of the insurance company's claim and was the amount appellant was told he had to pay in restitution on that date. The report does not show that the district court knew of the insurance company's claim at the disposition hearing. See *Mason v. State*, 652 N.W.2d 269, 271-72 (Minn. App. 2002) (declining to vacate a restitution order issued after sentencing when the court did not know the extent of the victim's loss at sentencing).

The record supports the district court's finding that the court did not know of the insurance company's claim at the time of the disposition and its conclusion that the criteria of Minn. Stat. § 645.26, subd. 1, for amending a restitution award had been met. There was no error in the amendment.

Affirmed.