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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0089**

State of Minnesota,
Respondent,

vs.

Tanya Jo Eidhammer,
Appellant.

**Filed May 20, 2019
Affirmed
Klaphake, Judge***

Cottonwood County District Court
File No. 17-CR-17-338

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

Nicholas A. Anderson, Cottonwood County Attorney, Windom, Minnesota (for
respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Davi E. Axelson, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Reilly, Judge; and Klaphake,
Judge.

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

UNPUBLISHED OPINION

KLAPHAKE, Judge

Appellant Tanya Jo Eidhammer challenges the district court's restitution order following her conviction of theft of a motor vehicle under Minn. Stat. § 609.52, subd. 2(a)(17) (2016). She argues that the district court erroneously dismissed her restitution challenge by concluding that she failed to meet the statutory burdens of pleading and production. She also argues that the district court abused its discretion by ordering restitution in the amount of \$1,706.42 to be paid to the victim of the car theft. Because Eidhammer failed to meet the statutory requirements in challenging restitution, we affirm.

DECISION

“The primary purpose of the [restitution] statute is to restore crime victims to the same financial position they were in before the crime.” *State v. Palubicki*, 727 N.W.2d 662, 666 (Minn. 2007). District courts have broad discretion to award restitution, and we will not reverse a district court's order absent an abuse of that discretion. *State v. Andersen*, 871 N.W.2d 910, 913 (Minn. 2015). “But determining whether an item meets the statutory requirements for restitution is a question of law that is fully reviewable by this court.” *State v. Nelson*, 796 N.W.2d 343, 346-47 (Minn. App. 2011) (quotation omitted).

Eidhammer argues that the district court erred by dismissing her restitution challenge because she failed to meet the statutory burdens of pleading and production. Minn. Stat. § 611A.045, subd. 3(a) (2018), imposes two burdens on offenders who challenge a restitution order: the burden of pleading and the burden of production. See *State v. Thole*, 614 N.W.2d 231, 235 (Minn. App. 2000). This requires an offender to

submit a “detailed sworn affidavit” that sets forth “all challenges to the restitution or items of restitution, and specif[ies] all reasons justifying the dollar amounts of restitution which differ from the amounts requested by the victim.” Minn. Stat. § 611A.045, subd. 3(a). The legislature requires an offender to “fully plead,” in a detailed affidavit, her position. *Thole*, 614 N.W.2d at 235. When the offender raises “a proper challenge to the restitution order,” the burden shifts to the state to prove the “propriety of the restitution by a preponderance of the evidence.” *Id.*

In her affidavit, Eidhammer alleges three statements to support her request of a hearing to challenge restitution following her conviction of theft of a motor vehicle: (1) she was not charged with criminal damage to property; (2) she did not cause the alleged damage to the stolen vehicle; and (3) “the amount of restitution sought is unreasonable.” The district court ruled that Eidhammer’s affidavit failed to meet the statutory requirements because it did not state which restitution items she challenged. We agree.

Eidhammer’s affidavit failed to challenge any specific part of the restitution order and failed to specify any reasons for a dollar-amount difference in restitution as required under section 611A.045, subdivision 3(a). “Under the plain language of the statute, a valid dispute arises only after an offender meets the threshold burden of raising a specific objection by affidavit.” *Thole*, 614 N.W.2d at 235. The only statement in her affidavit that challenges restitution is the general allegation that the restitution amount is “unreasonable.” The restitution statute ensures that when a defendant challenges restitution, the state has notice of what restitution items are being challenged, as the burden then shifts to the state to prove the “propriety of the restitution.” *Id.*; Minn. Stat. 611A.045, subd. 3(a) (“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.”). The state was therefore not on notice of what restitution items or amounts were challenged.

Because Eidhammer made no specific objection to the restitution granted, the district court did not err by dismissing her restitution challenge and we find no reason to disturb the district court’s award of restitution.

Affirmed.