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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1468**

In the Matter of the Welfare of M. S.-R.

**Filed April 20, 2020
Affirmed
Larkin, Judge**

Hennepin County District Court
File No. 27-JV-18-4191

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

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Considered and decided by Florey, Presiding Judge; Worke, Judge; and Larkin,
Judge.

UNPUBLISHED OPINION

LARKIN, Judge

Appellant-juvenile challenges the district court's order requiring him to pay
\$1,400.47 in restitution, arguing that the district court failed to adequately consider his
restitution challenge. We affirm.

FACTS

In September 2018, the state filed a juvenile-delinquency petition alleging that 15-year-old appellant M.S.-R. engaged in disorderly conduct (brawling or fighting).¹ The petition stemmed from a May 2018 incident at M.S.-R.'s high school in which M.S.-R. and three other individuals engaged in a series of physical altercations with N.B. and L.B. The entire incident lasted about six minutes and occurred at three locations in the high school. Parts of the incident were captured on security cameras. N.B. and L.B. sustained injuries and received medical treatment. N.B. was treated for a broken nose, a facial laceration that required stitches, and a head injury that required a CT scan, which was later determined to be a concussion. N.B. had to have surgery to correct his nose.

The state agreed to send M.S.-R.'s case to a diversion program and to dismiss the charge upon his completion of the program. M.S.-R. agreed to pay one-half of the total amount of any restitution. M.S.-R. notified the district court and the state of his intent to challenge the amount of restitution, and the district court ordered a restitution study. In March 2019, the district court ordered M.S.-R. to pay \$3,354.29 in restitution "on a Joint and Several basis." M.S.-R. completed diversion programming and filed a formal objection to the requested restitution.

In July 2019, the district court held a contested restitution hearing. The district court received 11 exhibits, including a surveillance video depicting parts of the incident. The district court heard testimony from N.B., the probation officer who prepared the restitution

¹ Our statement of the facts is based on the district court's order and memorandum of law regarding M.S.-R.'s restitution challenge.

study, and M.S.-R.'s mother. N.B. testified about the incident, M.S.-R.'s role in the incident, his injuries, and the medical expenses he incurred as a result of the incident. The probation officer testified that she determined the loss to N.B. to be \$3,111.44. She also testified that M.S.-R. could pay for restitution through probation's sentence-to-service program, which provides opportunities for juveniles to work on weekends for compensation that is paid toward their restitution obligations.

M.S.-R.'s mother testified regarding his ability to pay restitution and explained that although M.S.-R. had a part-time job, he used his earnings to support his family, and his family needed those earnings to pay necessary expenses. M.S.-R. argued that he should not have to pay restitution because he did not directly cause N.B.'s or L.B.'s losses and because it would create a financial hardship for his family.

After the hearing, the district court issued a 23-page order and memorandum of law granting in part and denying in part M.S.-R.'s motion contesting restitution. The district court rejected M.S.-R.'s argument that he should not have to pay restitution and determined that N.B. was entitled to restitution of \$2,800.94. In doing so, the district court rejected N.B.'s claim for \$310.50 in lost wages and limited the restitution award to N.B.'s medical expenses. Based on M.S.-R.'s diversion agreement to pay one-half of the amount of total restitution, the district court ordered M.S.-R. to pay \$1,400.47 in restitution either through the paid sentence-to-service program or cash payments before the expiration of his continuance for dismissal.

M.S.-R. appeals.

DECISION

“[I]f [a] 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,” a district court may impose restitution if it is “necessary to the rehabilitation” of the child. Minn. Stat § 260B.198, subd. 1(a)(5) (Supp. 2019).² “In juvenile-delinquency matters, restitution is governed by both the restitution provision of the juvenile-delinquency statute . . . and the general restitution statute” *In re Welfare of I.N.A.*, 902 N.W.2d 635, 640 (Minn. App. 2017), *review denied* (Minn. Nov. 28, 2017); *see* Minn. Stat. § 611A.04 (2018) (general restitution statute); Minn. Stat. § 260B.198, subd. 1(a)(5) (allowing for restitution in juvenile-delinquency cases).

“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). A district court has broad discretion to award restitution, and its decision “will not be reversed absent an abuse of that discretion.” *State v. Andersen*, 871 N.W.2d 910, 913 (Minn. 2015). “A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or rendering a decision that is against logic and the facts on [the] record.” *I.N.A.*, 902 N.W.2d at 642.

“The record must provide the [district] court with a factual basis to award restitution.” *State v. Johnson*, 851 N.W.2d 60, 65 (Minn. 2014). And “[t]he burden of demonstrating the amount of loss sustained by a victim . . . is on the prosecution.” Minn.

² The legislature renumbered Minn. Stat § 260B.198, subd. 1, in 2019. 2019 Minn. Laws ch. 50, art. 1, § 85.

Stat. § 611A.045, subd. 3(a) (2018). If a district court orders restitution as part of a disposition in a juvenile-delinquency case, its order must contain sufficient findings of fact to support the disposition ordered. *See* Minn. Stat. § 260B.198, subd. 1(b) (Supp. 2019) (providing that any order for a disposition in a juvenile-delinquency case must contain findings to support the disposition ordered); Minn. R. Juv. Delinq. P. 15.05, subd. 2(A) (providing that “the dispositional order made by the court shall contain written findings of fact to support the disposition ordered”). 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 N.T.K.*, 619 N.W.2d 209, 211 (Minn. App. 2000). “[I]nadequate written findings in a juvenile disposition order constitute reversible error.” *I.N.A.*, 902 N.W.2d at 642.

M.S.-R. contends that the district court failed to adequately consider his restitution challenge, arguing that the district court erred in its determinations regarding his role in the incident, his ability to pay restitution, and whether restitution aids in rehabilitation. We address each argument in turn.

M.S.-R.’s Role in the Incident

M.S.-R. argues that “despite the district court’s findings,” “his level of participation was not the same as that of the other defendants” and he therefore should not have been compelled to pay restitution.

“[A] district court may order restitution only for losses that are directly caused by, or follow naturally as a consequence of, the defendant’s crime.” *State v. Boettcher*, 931 N.W.2d 376, 381 (Minn. 2019). “It may not order restitution for conduct that is only

tangentially related to the criminal act that caused the loss.” *State v. Miller*, 842 N.W.2d 474, 477 (Minn. App. 2014), *review denied* (Minn. Apr. 15, 2014). When the injuries caused by a defendant are indistinguishable from the injuries and losses that his codefendant inflicted on their victim, a district court may hold defendants jointly and severally liable for restitution. *See id.* at 478 (concluding that district court acted within its discretion in ordering joint-and-several restitution liability where two defendants were involved in an assault but it was unclear who caused victim’s specific injuries).

The district court considered whether M.S.-R. directly caused the injuries to N.B., and the other victim, L.B. It determined that M.S.-R. was responsible only for N.B.’s injuries and that he was responsible both directly and as an aider and abettor. That determination was based on evidence at the restitution hearing, including N.B.’s testimony that M.S.-R. grabbed him, punched him in the face, put him in a headlock, and then threw him headfirst into a wall and ultimately onto the floor. The surveillance video showed M.S.-R. punching N.B. and corroborated N.B.’s testimony. The record supports the district court’s determination that “the injuries [M.S.-R.] inflicted on the victim are indistinguishable from the injuries and losses that the other three males in his group inflicted upon N.B.” (Footnote omitted.)

M.S.-R.’s Ability to Pay

M.S.-R. argues that the district court abused its discretion in ordering him to pay restitution because “no findings showed [that he] had an ability to pay.”

In determining whether to award restitution, 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) (2018). “In a juvenile-delinquency case, restitution must be reasonable.” *I.N.A.*, 902 N.W.2d at 643 (quotation omitted); *see* Minn. Stat. § 260B.198, subd. 1(a)(5) (providing that the district court may order a child to “make reasonable restitution”). Because the statute does not indicate how courts should consider those factors, district courts have “wide flexibility to structure restitution orders that take into account a defendant’s ability to pay.” *State v. Maidi*, 537 N.W.2d 280, 285-86 (Minn. 1995). There is no strict requirement regarding how the district court should address a defendant’s ability to pay, *State v. Alexander*, 855 N.W.2d 340, 344 (Minn. App. 2014), but courts must be specific in defining the terms of restitution, *State v. Hanninen*, 533 N.W.2d 660, 662 (Minn. App. 1995), *review denied* (Minn. Sept. 28, 1995).

In determining M.S.-R.’s ability to pay, the district court acknowledged M.S.-R.’s mother’s testimony that M.S.-R.’s restitution obligation would create a financial hardship for the family because earnings from his part-time job are needed to help support their four-person family and noted that “it is clear that [M.S.-R.] has limited income and financial resources.” However, the district court also considered the probation officer’s testimony that M.S.-R. could work sentence-to-serve shifts each weekend for \$10 per hour and that the money would go directly toward his restitution obligation. The district court considered M.S.-R.’s school obligations, and part-time employment, and concluded that despite the family’s financial circumstances, M.S.-R. had “the resource of time to engage in paid work to pay the restitution” and could satisfy his \$1,400.47 restitution obligation through the sentence-to-service program, without cutting into the money he earned at his job for his

family. The district court's thorough memorandum shows that it adequately considered whether M.S.-R. had the ability to pay restitution.

M.S.-R. also argues that “just as in *I.N.A.*, [here] the district court failed to specify” the amount M.S.-R. is to pay monthly and over what period and whether the remaining balance will be docketed for civil judgment, and “failed to assess [his] ability to pay those specific amounts given his income, resources, and obligations.”

M.S.-R.'s argument focuses on our remand instructions in *I.N.A.*, which were based on the circumstances of that case. In *I.N.A.*, the district court ordered 14-year-old I.N.A. to pay approximately \$12,500 in restitution and supported the order with a general statement that I.N.A. “had the ability to pay the restitution in smaller monthly installments.” 902 N.W.2d at 638, 643. I.N.A. appealed, and this court reasoned that “because the order [was] unclear as to how much the district court expect[ed] I.N.A. to actually pay per month, and over what period of time,” we could not determine whether the restitution award was reasonable. *Id.* at 643-44. As a result, our remand instructions were precise: (1) specify the amount the child was expected to pay monthly and over what time period, (2) determine whether a remaining balance would be docketed and, if so, in what amount, and (3) assess the child's ability to pay those specific amounts given his income, resources, and obligations. *Id.* at 644.

This case is unlike *I.N.A.* First, the amount of restitution here is significantly less than in *I.N.A.* Second, the district court's reasoning in this case is clear. Third, the district court here thoroughly considered M.S.-R.'s ability to pay. And fourth, contrary to M.S.-R.'s argument, the district court's order provides that if M.S.-R. “fails to pay the ordered

restitution amount of \$1,400.47 by . . . the expiration date of the continuance for dismissal, the balance of \$1,400.47 may be docketed as a civil judgment.”

Lastly, M.S.-R. argues that the “proper legal standard demands that the district court provide an accounting of how much a juvenile must pay at what intervals and how that amount of time and money will affect the juvenile’s ability to pay his other expenses and help out his family.” Again, this argument is based on our remand instructions in *I.N.A.* *See id.* In giving those instructions, this court did not say, as a matter of law, that it was establishing a requirement for all cases. In fact, in *I.N.A.* this court recognized that “[t]here is no strict requirement regarding how the district court should address the ability-to-pay issue” and noted that the Minnesota Supreme Court has determined that the legislature intended to give courts “wide flexibility to structure restitution orders that take into account a defendant’s ability to pay.” *Id.* at 643 (quotations omitted). The district court adequately considered M.S.-R.’s ability to pay and its order is within the wide flexibility given to the district court.

Whether Restitution Aids M.S.-R.’s Rehabilitation

M.S.-R. argues that “[t]he [district court’s] findings did not show paying restitution aids rehabilitation.”

A district court must consider whether restitution is “necessary to the rehabilitation of the child.” Minn. Stat. § 260B.198, subd. 1(a)(5). “[T]he whole purpose of the Juvenile Court Act is to rehabilitate a young person” *In re Welfare of J.E.C.*, 225 N.W.2d 245, 254 (Minn. 1975).

The district court's order explains, at length, why restitution will further rehabilitation. The district court reasoned that paying restitution serves to rehabilitate M.S.-R. "by demonstrating the nature and extent of the physical injuries [M.S.-R.] and his fellow associates inflicted on the victim, as well as the cost of the resulting medical care." It further explained that although "it may be inconvenient for [M.S.-R.] to either work additional hours at his private employment or to spend some of his free time working in the paid sentence-to-service program," those additional hours "will contribute to [his] rehabilitation in that he will be reminded that his actions in this incident resulted in specific monetary and time consequences for him." The district court's reasoning is sound, and its findings show that it adequately considered whether paying restitution was necessary for M.S.-R.'s rehabilitation.

In sum, as we said in *I.N.A.*, "[w]ritten findings are required in juvenile-delinquency cases to show that the district court considered vital standards and to enable the parties to understand the court's decision." 902 N.W.2d at 642 (quotation omitted). That standard is satisfied here. The district court's order is 23 pages long and includes 6 pages of findings of fact and approximately 13 pages of legal conclusions. The district court's findings and conclusions are supported by the testimony and exhibits introduced at the restitution hearing. Moreover, the district court's order sets forth the relevant substantive law with citations and applies that law to its detailed factual findings. Lastly, the district court thoroughly addressed the restitution issues that must be considered in a juvenile-delinquency case. It is apparent from the district court's order that M.S.-R. received

thorough consideration of his restitution challenge and that the district court did not abuse its discretion in establishing M.S.-R.'s restitution obligation.

Affirmed.