

*This opinion is nonprecedential except as provided by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
A20-0755**

State of Minnesota,
Respondent,

vs.

Colten Chase Camacho,
Appellant.

**Filed April 5, 2021
Affirmed
Bratvold, Judge**

Brown County District Court
File No. 08-CR-17-373

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

Charles Hanson, Brown County Attorney, Daniel D. Kalk, Assistant County Attorney,
New Ulm, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Erik I. Withall, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bjorkman, Presiding Judge; Bratvold, Judge; and Bryan,
Judge.

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

After appellant pleaded guilty to and was convicted of three counts of hiring a minor for prostitution, the district court awarded restitution for out-of-pocket medical expenses incurred by one of the three victims. In this sentencing appeal, appellant argues that the

district court abused its discretion by (1) ordering restitution for medical expenses that resulted from the dismissed charges of criminal sexual conduct, and (2) receiving inadmissible evidence over his objection during the restitution hearing. We conclude that the record supports the district court's finding that the medical expenses directly resulted from appellant's offense of conviction, and that the district court did not abuse its discretion in the admission of evidence. Thus, we affirm.

FACTS

In April 2017, respondent State of Minnesota charged appellant Colten Chase Camacho with nine offenses, including three counts of hiring a minor for prostitution, Minn. Stat. § 609.324, subd. 1(c)(2) (2016). The following summarizes the record, including the complaint and probable-cause statement, which recounted detailed statements by each of the three victims. Because Camacho's appeal challenges only the restitution award for victim 2, this opinion focuses on the facts relating to her.

In early 2017, Camacho used a messaging application to communicate with three girls, who were 15 or 16 years old. Camacho met the three girls at a parking lot in New Ulm. The girls joined Camacho in his car and drove around. After stopping at his home, Camacho told them he smelled marijuana and searched each of them. Victim 2 told Camacho to stop touching her, so he handcuffed her to the driver's seat. The girls told Camacho they wanted to return to their car at the parking lot.

Camacho instead drove them out of town and down a gravel road to a shooting range where no one had cell-phone service. Camacho parked, took out a handgun, and asked the

girls to shoot it. Victim 2 shot the gun because she believed that if she refused, Camacho would hold them hostage, and, she reasoned, “so there would be less bullets.”

Camacho entered the back seat of the car with victims 2 and 3, while victim 1 remained in the front seat. He offered each of them alcohol and \$100 for oral sex. They refused. Camacho “then grabbed them by the back of their head[s] and made them.” Camacho told them they could not leave until he was “finished.” Victim 2 tried to leave the car, but could not because the doors would not open from the inside. After Camacho ejaculated in victim 2’s mouth, he forced the girls to take “sexual” photos. Camacho then drove them back to their car. All three were crying and Camacho told them to “shut up” or he would “involve his gun.” Camacho also told them that if they told anyone, “there would be problems.”

The state charged Camacho with three counts of hiring a minor for prostitution, along with three counts of first-degree criminal sexual conduct and three counts of second-degree criminal sexual conduct. In February 2019, Camacho reached an agreement with the state. Camacho agreed to plead guilty to three counts of hiring a minor for prostitution, and the state agreed to dismiss the other six charges. After receiving testimony, the district court accepted Camacho’s guilty plea, dismissed the other charges, and set the case for sentencing. During a hearing that included a presentence report and victim-impact statements, the district court sentenced Camacho to 21 months in prison.

The mother of victim 2 filed a signed restitution request along with medical-expense documents supporting her claim that she paid for medical treatment that victim 2 received as a result of Camacho’s offense. The district court awarded \$2,456.96 in restitution.

Camacho challenged the restitution order and requested a hearing. At the start of the hearing, the defense objected because victim 2 was absent. The district court overruled the objection, explaining that the “person who actually paid the bills on behalf of the minor would be an appropriate person to testify.” The state offered testimony from victim 2’s mother, who testified that her daughter received medical treatment for anxiety and depression after the offense, including tests to adjust her medications. The mother testified that the documents submitted with her restitution request showed her out-of-pocket expenses for co-pays, prescriptions, and laboratory tests, which health insurance did not cover. The mother finally testified that she paid for emergency-room and ambulance expenses from October 2017 when victim 2 “actually did slit her wrists.” Camacho’s attorney objected during the mother’s testimony, but the district court overruled most of the objections.

In a written order issued after the hearing, the district court made the following factual findings: Victim 2 “suffered” from anxiety and depression “as a direct result” of Camacho’s crime and “for which she sought medical attention.” Victim 2’s mother “attended all” medical appointments with victim 2, and, at each appointment, her mother “had to pay a \$20 copay before the doctor would see” victim 2. Specifically, victim 2 had ten office visits in 2018 and eight office visits in 2019 that were “directly caused” by Camacho’s crime. Medical treatment for victim 2’s anxiety and depression included prescription medications, which required lab tests; consequently, these costs were a “direct result” of Camacho’s “crime against” victim 2. Finally, in October 2017, victim 2’s anxiety and depression “worsened,” she attempted suicide, victim 2’s mother paid for the

emergency-room and ambulance costs related to the suicide attempt, and Camacho “is responsible to pay these amounts.”¹

The district court ordered Camacho to pay restitution of \$1,415.72 for medical co-pays, prescriptions, lab tests, and emergency-room and ambulance expenses. This appeal follows.

DECISION

Restitution is monetary compensation to the victim or the victim’s family. Minn. Stat. § 609.10, subd. 2(a) (2018). A crime victim “has the right to receive restitution as part of the disposition of a criminal charge . . . if the offender is convicted.” Minn. Stat. § 611A.04, subd. 1(a) (2018). The “primary purpose” of the restitution statute is to restore victims “to the same financial position they were in before the crime.” *State v. Palubicki*, 727 N.W.2d 662, 666 (Minn. 2007).

“A request for restitution may include, but is not limited to, any out-of-pocket losses resulting from the crime, including medical and therapy costs” Minn. Stat. § 611A.04, subd. 1(a). In deciding whether to order restitution and the amount of the restitution, a district court considers “(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). The state has the burden of proof at a restitution hearing. Minn. Stat. § 611A.045, subd. 3(a) (2018).

¹ The district court found that the state did not prove that some of the submitted medical expenses were caused by Camacho’s crime of conviction and denied restitution for victim 2’s chiropractic treatments and for her prescription costs for antibiotics and a nasal spray.

Camacho argues that the district court's restitution award must be reversed for two reasons, which we consider in turn.

I. The record evidence supports the district court's finding that victim 2's medical expenses were a direct result of the offense of conviction.

Camacho argues that the district court abused its discretion by ordering restitution for victim 2's medical expenses because the expenses were caused by the dismissed charges for criminal sexual conduct and not by his convicted offense of hiring a minor for prostitution.² The state argues that the district court's restitution award results from Camacho's crime of conviction, is supported by record evidence, and follows applicable law.

Thus, the issue on appeal is whether the record supports the district court's findings that the losses sustained by victim 2 occurred "as a result of [Camacho's] offense." An appellate court will not disturb a district court's factual findings unless they are clearly erroneous. *State v. Andersen*, 871 N.W.2d 910, 913 (Minn. 2015). A district court has broad discretion to award restitution, and we review the ultimate question of whether to award restitution for abuse of discretion. *State v. Boettcher*, 931 N.W.2d 376, 380 (Minn. 2019).

Camacho focusses on whether the state offered sufficient evidence that victim 2's economic losses were sustained "as a result of the offense." *See* Minn. Stat. § 611A.045,

² Camacho's brief also notes that restitution was "not contemplated in the plea agreement." This is accurate because the plea agreement does not mention restitution. But Camacho makes no specific argument about error based on the plea agreement, so we do not consider this point further.

subd 1(a). The Minnesota Supreme Court has interpreted this particular phrase and endorsed its meaning as, “[t]o happen as a consequence,” and also held that the “noun ‘result’ means ‘[s]omething that follows naturally from a particular action, operation, or course; a consequence or outcome.’” *State v. Riggs*, 865 N.W.2d 679, 685-86 (Minn. 2015) (quoting *The American Heritage Dictionary of the English Language* 1497 (5th ed. 2011)). Thus, according to the supreme court, Minn. Stat. § 611A.045, subd. 1(a), “plainly requires the district court to consider the economic loss sustained by the victim as a consequence of the defendant’s violation of the law.” *Id.* at 686 (holding that victim’s role as initial aggressor may not be considered when determining restitution). The supreme court later clarified that 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” of conviction. *Boettcher*, 931 N.W.2d at 381.

Camacho argues that “[b]ecause the crime of prostitution does not require a sex act, and the harm claimed by the victim’s mother was the result of dismissed charges, the restitution claim is not compensable as a result of the crime.” The state responds that the facts “reflect that the crime Appellant was convicted of, Prostitution with a Minor, was inextricably linked to other crimes charged but later dismissed.”

Camacho begins his argument by making two points of law, both of which are sound, but have limited application to the issue on appeal. First, Camacho contends that prostitution is an inchoate offense, which “does not require sexual penetration or sexual contact,” and that “[t]he prostitution crime is complete when the patron ‘hires’ the prostitute.” The state does not contest that prostitution is an inchoate offense. Looking at

the required elements, we also agree. Camacho was convicted under Minn. Stat. § 609.324, subd. 1(c)(2), which provides that whoever intentionally “hires or offers or agrees to hire an individual under the age of 18 years but at least 16 years to engage in sexual penetration or sexual contact” is guilty of hiring a minor for prostitution. Precedent supports Camacho’s view of his offense as requiring proof of an agreement to hire and not requiring evidence of a completed sexual act. *See State v. Bennett*, 258 N.W.2d 895, 897 (Minn. 1977) (“[T]he statute requires neither completed sexual conduct nor a substantial act in furtherance of the endeavor . . . it proscribes inchoate activity.”).³

Second, Camacho points to *Boettcher* as establishing that a district court may order restitution “only for losses that are directly caused by, or follow naturally as a consequence of” the convicted crime. 931 N.W.2d at 381. We have already cited this holding and agree that the supreme court in *Boettcher* articulated this standard as “the general rule” while rejecting the court of appeals opinion that the restitution statute was satisfied by proof of a “factual relationship” between the conduct causing the loss and defendant’s conviction. *Id.* at 381.

But we disagree with Camacho’s claim that *Boettcher* shows that the district court erred. Our analysis begins with understanding *Boettcher*’s long procedural history. The state charged Boettcher with burglary and arson involving a cabin in northern Minnesota. *Id.* at 378. The jury found Boettcher guilty of burglary, but could not reach a verdict on the

³ The statute cited in *Bennett* has since been repealed, but it criminalized the same conduct as the statute underlying Camacho’s conviction because it provided that the crime of prostitution is “engaging or offering or agreeing to engage for hire in sexual intercourse.” 258 N.W.2d at 897 (quoting Minn. Stat. § 609.32, subd. 4 (1976)).

arson charge, even though witnesses testified that Boettcher set the blaze. *Id.* at 378-79. The district court accepted the partial verdict, and the state did not retry Boettcher for arson. *Id.* at 379. The victims requested restitution, including fire damages. *Id.* The district court ordered Boettcher to pay for fire damages as part of the restitution award, and Boettcher appealed. *Id.* The court of appeals affirmed the restitution award because there was a “factual relationship” between Boettcher’s burglary and the fire damages. *Id.* at 380. The supreme court reversed, based on the reasoning discussed above, and remanded.

On remand, the court of appeals reversed the district court’s restitution order. *State v. Boettcher*, No. A17-1426, 2019 WL 5884557, at *2 (Minn. App. Nov. 12, 2019). The court of appeals reasoned:

Boettcher was convicted of entering the cabin without consent and with intent to commit theft. . . . Thus, he could be ordered to pay restitution for any economic losses incurred through forcing entry into the cabin or theft because those losses would have followed naturally from the crime of which he was convicted. *But, even if they are factually connected, economic losses resulting from the fire damage here are too attenuated from the crime of which Boettcher was actually convicted* because they “cannot be said to result from [Boettcher’s] criminal act” of entering a dwelling without consent and with intent to commit theft.

Id. (emphasis added) (alteration in original) (quoting *Boettcher*, 931 N.W.2d at 381). Thus, on remand, this court rejected the fire damages as “too attenuated” from the burglary.

Relying on *Boettcher*, Camacho argues that the evidence at the restitution hearing established that victim 2’s trauma arose from the alleged criminal sexual conduct, so the losses are only factually related to, and not the direct result of, Camacho’s crime of

conviction.⁴ The state responds that Camacho’s argument implies “that since there was no rape, there can be no mental injury requiring restitution,” but that “the facts of this case are much more complicated than that.”

We conclude that Camacho’s reliance on *Boettcher* is misplaced for two reasons. First, Camacho fails to consider the record evidence as a whole. Camacho argues that the mother’s testimony proved the medical expenses resulted from the sex crime. It is true that the state asked the mother if the medical services that she had paid for were “provided to your daughter,” to which the mother responded affirmatively, and the state continued, “as a direct result of this—of the rape?” The mother again responded affirmatively.

But Camacho ignores that the mother also testified that her daughter sought treatment for anxiety and depression after the offense and the doctor prescribed medication for anxiety and depression because victim 2 was “very, very stressed out and not herself, and . . . not doing well in school.” Camacho also ignores the other record evidence establishing the particular facts involved in Camacho’s hiring-a-minor-for-prostitution offense—driving the three girls to a shooting range, forcing them to perform oral sex when they knew he had a loaded gun, forcing them to take sexual photos, and threatening them with a handgun, to name a few. Simply stated, Camacho’s argument assigns too much

⁴ Camacho relies mainly on *Boettcher*, but also cites an unpublished decision from this court. Unpublished decisions are not precedential. Minn. R. Civ. App. P. 136.01, subd. 1(c). We do not find the cited case persuasive. The statute underlying appellant’s conviction provided that the failing-to-stop crime “did not cause the collision,” thus, this court determined that restitution for the collision was not appropriate. *State v. Harvey*, No. A19-0049, 2019 WL 4582544, *3 (Minn. App. Sept. 23, 2019). The hiring-a-prostitute statute does not similarly provide that the crime “did not” involve criminal sexual conduct.

weight to mother's affirmative response to a single question and overlooks the mother's other testimony, police reports, victim-impact statements, and the record as a whole.

Second, Camacho is wrong about his own testimony at the plea hearing. Camacho contends that his prostitution offense occurred before the sex crime, just as the burglary in *Boettcher* occurred before the arson. Camacho argues that “[p]rior to meeting the victims, [he] ‘agreed to a price to have sexual intercourse or sexual contact with the females.’” A careful reading of Camacho’s testimony in response to questions from his attorney does not support his argument.

Q: You agree that on or about November 1st, 2016, to January 30th, 2017, in Brown County, State of Minnesota, you were out on a gravel road with three girls, correct?

A: Correct.

Q: And prior to picking them up in your car, you agreed to a price to have sexual intercourse or sexual contact with the females, correct?

Camacho did not answer the question. Instead, following a discussion off the record, Camacho responded to new questions by his attorney.

Q: *Mr. Camacho, you understand after you picked up the girls, you were going to have sexual intercourse or sexual contact with them, correct?*

A: *After I picked them up?*

Q: *After you picked them up.*

A: *Yes.*

Q: *And ultimately you gave them money?*

A: *Eventually, yes.*

(Emphasis added.) Thus, Camacho did not testify that he agreed to hire the three victims for prostitution before or even shortly after he picked them up. Instead, he equivocated and testified that he “eventually” gave the victims money. In a separate exchange with the

prosecuting attorney, Camacho testified he paid the victims after and for his sexual contact with them. The prosecuting attorney asked Camacho whether he paid the victims “for the sexual contact that you had,” and Camacho responded, “Morally, I’d say yes.” Similarly, Camacho agreed in response to questioning by the district court that he “gave them money” for “the sexual contact.”

In sum, Camacho’s argument is flawed because he assumes his crime of hiring a minor for prostitution did not traumatize victim 2, and he assumes that he committed the crime of hiring a minor for prostitution before sexual contact with the victims. The record, however, establishes that Camacho paid the victims after and for his sexual contact with them. The record also establishes that victim 2 was traumatized by Camacho hiring her for prostitution, that she received medical treatment for anxiety and depression following the crime, and even attempted suicide because of her worsening mental health.

Thus, the district court’s finding that victim 2’s medical expenses were the direct result of Camacho hiring a minor for prostitution finds ample support in the record evidence.

II. The district court did not abuse its discretion by admitting evidence at the restitution hearing.

Camacho argues that the district court erred by overruling his objections to the mother’s testimony and the exhibits offered through her. The state contends that the district court did not abuse its discretion in the admission of evidence. Appellate courts review evidentiary rulings on hearsay statements for “clear abuse of discretion.” *State v. Burrell*,

772 N.W.2d 459, 469 (Minn. 2009).

Our review of the district court’s rulings starts with the relevant rules of evidence, which apply to restitution hearings. *See State v. Willis*, 898 N.W.2d 642, 646 (Minn. 2017) (“[T]he Rules of Evidence apply to restitution hearings.”). In 2019, the supreme court amended Minn. R. Evid. 1101 to state that the evidentiary rules apply to restitution hearings and included an exception about foundation for documentary evidence.

For restitution hearings held under Minnesota Statutes, section 611A.045, subdivision 3, paragraph (b), these rules apply except that the foundation for admission of documentary evidence offered under Rule 803(6) may be provided by affidavit, or statements signed under penalty of perjury pursuant to Minnesota Statutes, section 358.116, in lieu of testimony.

Minn. R. Evid. 1101(c). In other words, in restitution hearings, foundation for documents offered as business records under rule 803(6) may be established by written oath or affirmation. *See* Minn. Stat. § 358.116 (2018) (providing that signed documents that are filed with the court are deemed verified by oath or affirmation). The 2019 committee comment explains that while the rules of evidence apply to restitution hearings, “the standards for admissibility of hearsay should be relaxed. This approach is intended to ease the burden on victims presenting receipts for expenses, while also ensuring fair and accurate restitution awards.” Minn. R. Evid. 1101 2019 comm. cmt.

A. Foundation objection to documents received at the restitution hearing

Camacho argues that the district court erred by overruling his foundation objection and receiving insurance statements and other documents related to victim 2’s medical bills under Minn. R. Evid. 803(6), the business-records exception to the hearsay rule. Camacho

contends that “the state did not present testimony or affidavit from a records custodian as required by Minn. R. Evid. 803(6).”

But the mother signed a restitution claim form, which was filed with the district court, along with 37 pages of medical-expense documents. The signed form states that her restitution claim “is a true and accurate list of property damage or loss due to the actions of the above named defendant(s).” Camacho does not contend that the mother’s submission did not comply with Minn. Stat. § 358.116 and fails to discuss the exception in rule 1101(c). Based on our review, mother fully complied with the relevant statute.

Thus, we conclude that the district court did not abuse its discretion when it received mother’s restitution claim form, along with its many attachments. *See* Minn. R. Evid. 1101(c).

B. Hearsay objection to mother’s testimony about victim 2’s diagnosis

Camacho asserts that the district court abused its discretion by overruling his hearsay objection and allowing the mother to testify that victim 2 was treated for depression and anxiety. Camacho argues that “the witness’s testimony was a medical diagnosis, and because the record does not establish that the witness was a medical expert under Rule 702, her lay witness opinion was not admissible to offer a medical diagnosis of the victim’s mental health.” Alternatively, Camacho argues that the mother’s testimony about her daughter’s depression was inadmissible hearsay because she related what the doctor said. Camacho also argues more generally that “there was insufficient evidence to conclude that [victim 2’s] mental illness resulted from Appellant’s crime.”

The district court properly received the mother's testimony for three reasons. First, we have carefully reviewed the transcript and conclude that mother's testimony was not a medical diagnosis. Rather, as the district court stated in overruling the objection, the mother testified that the reason victim 2 "was taken to the doctor was for medication for her anxiety and depression."

Second, the mother's testimony about the purpose of the medical-office visits and the emergency-room treatment rested on mother's personal knowledge, much like her testimony about which bills she paid. *See* Minn. R. Evid. 602 (evidence not based on personal knowledge must be excluded). As the district court stated in its ruling, the mother's testimony was not hearsay or improper expert testimony because "the witness indicated that that's what she observed."

Third, even if we assume that the mother's testimony was inadmissible to prove the daughter's anxiety and depression were the direct result of Camacho's crime, Camacho was not prejudiced. Other evidence also established that victim 2 received medical treatment for depression and anxiety because of Camacho's crime. A district court may rely on a victim-impact statement when awarding restitution. *See State v. Tenerelli*, 598 N.W.2d 668, 671-72 (Minn. 1999); *State v. Anderson*, 507 N.W.2d 245, 247 (Minn. App. 1993), *review denied* (Minn. Dec. 22, 1993).

At Camacho's sentencing hearing, victim 2 explained that Camacho's crime caused her anxiety and depression. Victim 2 stated that, for the first time in her life and following Camacho's offense, she took medication to treat anxiety and depression based on medical advice, and she attended therapy. Victim 2 also stated that she attempted suicide because

of Camacho's criminal conduct.

Colten left me with a terrifying memory that I will never be able to forget. Colten has changed so many things for me in my life such as not being able to fall asleep . . . causing me to go on sleeping medication . . . afraid of going to work . . . having flashbacks daily of what had happened, sleeping with a loaded gun with the fear of Colten or his family walking into my house, seeing a therapist, getting on depression, anxiety medication, switching schools due to the fear of so many males around me . . . having my school attendance drop, visiting a chiropractor due to the amount of stress building up in my body . . . having suicidal thoughts and actions

Because the district court did not abuse its discretion by receiving evidence at the restitution hearing and record evidence supports the restitution award, we conclude that the district court did not abuse its discretion by awarding victim 2's mother \$1,415.72 for medical expenses related to anxiety and depression that her daughter suffered as a result of Camacho's crime of hiring a minor for prostitution.

Affirmed.