

*This opinion is nonprecedential except as provided by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
A21-0732**

State of Minnesota,
Respondent,

vs.

Steven Wayne Haney,
Appellant.

**Filed January 18, 2022
Affirmed in part, reversed in part, and remanded
Florey, Judge**

Anoka County District Court
File No. 02-CR-17-8354

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

Anthony C Palumbo, Anoka County Attorney, Kelsey R. Kelley, Assistant County Attorney, Anoka, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Kathryn Lockwood, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

NONPRECEDENTIAL OPINION

FLOREY, Judge

In this sentencing appeal, appellant argues that (1) the district court erred in ordering him to pay restitution for damage caused to police squad cars because of an officer's

decision to perform PIT maneuvers and (2) the district court erred in failing to consider his ability to pay the restitution ordered. We affirm in part, reverse in part, and remand.

FACTS

On December 24, 2017, an officer observed appellant Steven Wayne Haney speeding. The officer initiated a traffic stop and noted while speaking with Haney that Haney seemed nervous, like something was “off.” The officer called for backup. Meanwhile, the officer checked Haney’s driver’s license and discovered that it was suspended and that there were two felony warrants for Haney’s arrest. A second officer arrived in a squad car. As the two officers approached Haney, Haney fled in his vehicle.

At one point, Haney slowed down, and the officer attempted a Pursuit Intervention Technique (“PIT”) maneuver to stop Haney’s vehicle.¹ The officer testified that he decided to perform the PIT maneuver because of the felony warrants for Haney’s arrest, because Haney was a public-safety hazard, and because the light traffic at that time of day allowed him to safely perform the maneuver with a low risk of causing harm to others. Despite colliding with the squad car, Haney accelerated and continued to flee, driving “erratically and in an unpredictable manner.”

Haney testified that, after continuing to flee, he decided he should pull over and end the chase because “it was getting out of hand” and he “was going to be arrested.” The squad-car video shows Haney put on his blinker, slow down, and turn a corner. At this

¹ The officer testified that a PIT maneuver is designed to disable the fleeing vehicle by spinning it around. PIT maneuvers are used to control the end of a motor vehicle pursuit to prevent significant danger to the public that can result from vehicles traveling at high speeds.

point, the officer executed a second PIT maneuver. The officer testified that Haney “slammed on the brakes and moved to the right,” resulting in the squad car hitting the side of Haney’s vehicle. Both Haney’s vehicle and the officer’s squad car went off the road and into a residential yard. Haney’s vehicle slid on snow, struck the stairway leading to the front door, and bounced off the house. After his vehicle hit the house, Haney continued to flee on foot. He was eventually apprehended by law enforcement.

After the incident, the damages to the homeowner and squad cars were assessed. The damages to the homeowner totaled \$294.29. The damages to the two police squad cars totaled \$18,272.44. Haney pleaded guilty to fleeing a peace officer in a motor vehicle, and the district court ordered restitution to both the homeowner and the City of Coon Rapids for the total amount of damage caused.

At a restitution hearing, Haney challenged the district court’s finding that he caused the damages to the homeowner and squad cars as the result of his conviction of fleeing a peace officer in a motor vehicle. Haney argued that he did not cause the damages to the house or the squad cars but that the damages were directly caused by the officer’s decision to perform PIT maneuvers. Haney did not contest the amount of restitution awarded or his ability to pay it. The district court found that “[p]roperty damage, be it to vehicles, homes, or some other type of property, is a natural consequence that flows directly from a crime of fleeing a peace officer in your car, driving at a high rate of speed, and driving erratically.” The district court concluded that the damages were a direct result of Haney’s flight in a motor vehicle from the police and that “[t]here was not attenuation between the fl[ight] and the damages.” This appeal follows.

DECISION

I. The district court did not abuse its discretion by ordering Haney to pay restitution.

Haney argues that the district court erred by ordering him to pay restitution because the damage to the squad car was caused by the PIT maneuvers and was not the direct result of Haney's conviction of fleeing a peace officer in a motor vehicle.

"A district court has broad discretion to award restitution, and the district court's order will not be reversed absent an abuse of that discretion." *State v. Andersen*, 871 N.W.2d 910, 913 (Minn. 2015) (citation omitted). A district court abuses its discretion when its decision regarding restitution is based on an erroneous interpretation or application of the law. *State v. Boettcher*, 931 N.W.2d 376, 380 (Minn. 2019).

Relying on *Boettcher*, Haney argues that "the losses caused by the officer's intentional ramming of his squad car into Haney's vehicle are too attenuated from Haney's fleeing the police offense." In *Boettcher*, the Minnesota Supreme Court 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;" not for "losses that merely have a 'factual relationship' to the [] crime." 931 N.W.2d at 381. Haney contends that "in this case, the district court first cited the correct 'direct causation' language but then seemed to apply the looser factual-relationship standard."

Here, the district court found that the property damage to the house and squad cars was "a direct result of Mr. Haney's fl[ight] from the police in his vehicle," and noted that property damage "is a natural consequence that flows directly from a crime of fleeing a

peace officer in [a] car, driving at a high rate of speed, and driving erratically.” The district court also found that the officer’s testimony that he decided to perform PIT maneuvers because of the seriousness of the warrants for Haney’s arrest and because Haney was a public-safety hazard was credible, and Haney’s testimony that he was slowing down to turn himself in was incredible because he continued to flee on foot after his vehicle hit the house. *See Gada v. Dedebo*, 684 N.W.2d 512, 514 (Minn. App. 2004) (stating that appellate courts defer to district court credibility determinations). Our review of the record comports with the district court’s findings; the damages that resulted to the police squad cars and homeowner were the direct result of Haney’s decision to flee from the officers, requiring the officer to perform PIT maneuvers in the interest of public safety. Therefore, we determine the district court did not abuse its discretion by ordering Haney to pay restitution for the damage caused to the police squad cars.

II. The district court failed to expressly state that it considered Haney’s ability to pay \$18,566.64 in restitution.

Haney next argues that the district court abused its discretion by failing to consider his inability to pay restitution and asks this court to remand to the district court “for a hearing to determine whether the restitution award should be reduced to an amount commensurate with Haney’s ability to pay.” We review a district court’s restitution decision for an abuse of discretion. *Andersen*, 871 N.W.2d at 913.

Crime victims have a “right to receive restitution as part of the disposition of a criminal charge.” Minn. Stat. § 611A.04, subd. 1(a) (2020) (stating that a district court may order a criminal to pay his victim’s restitution); *State v. Terpstra*, 546 N.W.2d 280,

282 (Minn. 1996) (quotation omitted). “Restitution has a dual purpose of rehabilitating the defendant and compensating the victim, but the primary purpose . . . is to compensate the victim.” *State v. Ramsay*, 789 N.W.2d 513, 518 (Minn. App. 2010). As such, the district court must consider both the “amount of economic loss sustained by the victim” and “the income, resources, and obligations of the defendant” when determining whether to order restitution and the amount of restitution. Minn. Stat. § 611A.045, subd. 1(a) (2020).

After this case was submitted to this court for decision, the Minnesota Supreme Court clarified that a district court must “expressly state[], either orally or in writing, that it considered the defendant’s ability to pay” in order to “fulfill[] its statutory duty to consider a defendant’s income, resources, and obligations.” *State v. Wigham*, ___ N.W.2d ___, ___ 2021 WL 6057995 at *5 (Minn. Dec. 22, 2021). And while the district court need not issue specific findings to support its consideration of the defendant’s ability to pay, “the record must include sufficient evidence about the defendant’s income, resources, and obligations to allow a district court to consider the defendant’s ability to pay the amount of restitution ordered.” *Wigham*, 2021 WL 6057995 at *5.

Here, in its restitution order, the district court stated that “[d]efendant shall develop a restitution payment schedule which shall be incorporated into any probation agreement made herein, all pursuant to Minn. Stat. § 611A.045, subd. 2a.² If the defendant is

² Minn. Stat. § 611A.045, subd. 2a (2020), provides in pertinent part: “The court shall include in every restitution order a provision requiring a payment schedule or structure. The court may assign the responsibility for developing the schedule or structure to the court administrator, a probation officer, or another designated person. The person who develops the payment schedule or structure shall consider the relevant information supplied by the defendant.”

committed to the Commissioner of Corrections, restitution shall be paid from prison wages.” The district court also had Haney’s application for a public defender, which stated that he had no income, assets, or savings. The district court’s statement about the restitution-payment schedule, the source of the restitution payments if Haney was incarcerated, and access to his public-defender application may perhaps reflect the court’s consideration of Haney’s payment capabilities. However, the district court failed to expressly state that it considered Haney’s ability to pay before awarding restitution, and this court should not “reverse engineer the district court’s thought process by searching the record to see what it might reveal about [Haney’s] ability to pay.” *Wigham*, 2021 WL 6057995 at *5 n.5.

Accordingly, because the district court did not expressly state that it considered Haney’s ability to pay, we conclude that the court has not complied with the requirements of section 611A.045, subd. 1. *See Wigham*, 2021 WL 6057995 at *7. We therefore reverse and remand to the district court for further proceedings on restitution. Before ordering restitution on remand, the district court “must expressly state, either orally or in writing, that it has considered [Haney’s] ability to pay—his income, resources, and obligations—when ordering restitution.” *Wigham*, 2021 WL 6057995 *7.

Affirmed in part, reversed in part, and remanded.