

*This opinion is nonprecedential except as provided by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
A23-1986**

In the Matter of the Welfare of J. D. C., Child.

**Filed August 12, 2024
Affirmed
Worke, Judge**

Hennepin County District Court
File No. 27-JV-22-2449

Cathryn Middlebrook, Chief Appellate Public Defender, Chang Y. Lau, Assistant Public Defender, St. Paul, Minnesota (for appellant J. D. C.)

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

Mary F. Moriarty, Hennepin County Attorney, Adam E. Petras, Assistant County Attorney, Minneapolis, Minnesota (for respondent State of Minnesota)

Considered and decided by Worke, Presiding Judge; Larson, Judge; and Smith, John, Judge.*

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant challenges a disposition order requiring her to pay restitution, arguing that the district court failed to consider whether requiring appellant to pay for losses caused by an uncharged accomplice was reasonable to her rehabilitation. We affirm.

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

FACTS

In July 2023, the district court adjudicated appellant J.D.C. delinquent of gross-misdemeanor theft, under Minn. Stat. § 609.52, subd. 2(a) (2022). J.D.C. agreed that she stole high-end fragrances with a value of at least \$500 from Ulta Beauty.

Ulta Beauty filed an affidavit of restitution seeking \$4,099. J.D.C. contested restitution “based on her ability to pay.” The district court held a hearing. J.D.C.’s attorney confirmed that the “only issue is [J.D.C.’s] ability to pay.” J.D.C. testified that she worked as an assistant manager at a gas station and had no physical disabilities that would limit her ability to work. J.D.C. testified that she is trying to save money for a car and to pay for college applications. J.D.C. testified that she could not afford to pay the full amount of restitution because she lives on her own and pays her expenses. J.D.C. believed that a fair amount for restitution was \$500 because she told the police that she stole “[a]t least \$500 worth” of merchandise and she “could pay it off before [her] probation is over.” Although, she testified that she could continue making payments after her probation ended.

The district court noted that two individuals were involved in the theft, but “the restitution report noted that [J.D.C.] is solely responsible for the restitution amount.” Respondent State of Minnesota indicated that, while there were two suspects, only J.D.C. was charged. The other suspect was not identified and J.D.C. did not identify an accomplice.

On December 4, 2023, the district court filed an order for restitution. The district court found that J.D.C. “did not challenge the amount of restitution claimed”; rather, “[t]he sole issue before the [c]ourt is [J.D.C.]’s ability to pay.”

The district court cited Minn. Stat. § 260B.198, subd. 1(5) (2022), and stated that it may award “reasonable restitution” if necessary to J.D.C.’s rehabilitation. The district court concluded that J.D.C. admitted to unlawfully taking “at least \$500 worth of [merchandise],” and stated that restitution was the only part of J.D.C.’s probation that addressed the theft. The district court stated that if it did not order restitution, J.D.C. would not develop responsibility for her unlawful behavior.

In considering J.D.C.’s claim that restitution should be reduced to \$500, the district court stated that there was “no evidence” supporting J.D.C.’s claim that she stole only \$500 worth of merchandise. The district court concluded: “After consideration of this record, the [c]ourt finds [that J.D.C.] has sufficient ability to pay \$4,099.00 in restitution.” The district court ordered J.D.C. to pay \$4,099 in restitution. This appeal followed.

DECISION

J.D.C. argues that the restitution order must be vacated, and the issue of restitution remanded to the district court for it to consider whether she must pay losses attributable to her uncharged accomplice. She claims that the district court failed to consider whether ordering her to pay the full amount was reasonable and necessary to her rehabilitation.

In juvenile-delinquency matters, restitution is governed by the juvenile-delinquency statute and the general restitution statute. *See* Minn. Stat. §§ 260B.198, subd. 1(5), 611A.04 (2022); *In re Welfare of H.A.D.*, 764 N.W.2d 64, 66 (Minn. 2009). We review an order for restitution for an abuse of discretion. *State v. Andersen*, 871 N.W.2d 910, 913 (Minn. 2015). A district court abuses its discretion when it bases its decision on an

erroneous view of the law or its decision “is against logic and the facts in the record.” *Riley v. State*, 792 N.W.2d 831, 833 (Minn. 2011).

“A victim of a crime has the right to receive restitution as part of the . . . juvenile delinquency proceeding against the offender if the offender is . . . found delinquent.” Minn. Stat. § 611A.04, subd. 1(a). In determining whether to order restitution, and the amount of restitution, the district court must consider: (1) the amount of loss; and (2) the income, resources, and obligations of the juvenile. Minn. Stat. § 611A.045, subd. 1 (2022). In a juvenile-delinquency case, restitution must be “reasonable.” Minn. Stat. § 260B.198, subd. 1(5).

J.D.C. argues that the district court did not consider whether ordering her to pay the full amount of restitution was reasonable for her rehabilitation. But the record shows that the district court considered the statutory requirements. The district court quoted the statute and concluded that it may impose restitution if it deems it “necessary to the rehabilitation” of the juvenile. The district court concluded that paying restitution was J.D.C.’s “only probationary condition that directly address[ed] the underlying theft,” and stated that “[a] complete lack of restitution would not be rehabilitative because this would not develop individual responsibility for unlawful behavior.” The district court properly considered the applicable statutory requirements under the juvenile statute.

J.D.C. argues that the district court failed to consider whether J.D.C.’s uncharged accomplice should be accountable for a portion of the restitution. But as the state notes, J.D.C. did not argue this issue in district court. The “sole issue” addressed at the restitution hearing was J.D.C.’s ability to pay. And J.D.C.’s testimony was solely about her ability to

pay. An appellate court typically does not consider issues that have not been raised before the district court. *State v. Johnson*, 851 N.W.2d 60, 64 (Minn. 2014); *Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) (holding that failure to raise issue in district court precludes consideration on appeal); *Thiele v. Stich*, 425 N.W.2d 580, 582-83 (Minn. 1988) (“An appellate court may not base its decision on matters outside the record on appeal, and may not consider matters not produced and received in evidence.”). J.D.C. did not raise the issue in district court or present any evidence to support it.

Further, the record supports the district court’s restitution order. When the goal of restitution is to rehabilitate, “the amount of restitution should be set according to the [juvenile]’s ability to pay.” *State v. Maidi*, 520 N.W.2d 414, 419 (Minn. App. 1994), *aff’d*, 537 N.W.2d 280 (Minn. 1995). The district court considered J.D.C.’s ability to pay, noting that J.D.C. supports herself financially (although not specifying the exact amount she spends on her obligations). The district court noted that J.D.C. is not incarcerated and is employed, earning at least minimum wage. The district court stated that J.D.C. “did not explain any specific hardships she might face if the full amount of restitution is ordered.”

The district court did not abuse its discretion because the record shows that the district court thoroughly considered J.D.C.’s ability to pay and determined that reducing restitution—J.D.C.’s only probationary condition related to the theft—would not be reasonable in supporting her rehabilitation.

Affirmed.