

*This opinion is nonprecedential except as provided by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
A25-0353**

In the Matter of the Welfare of: C.L.B., Child.

**Filed September 29, 2025
Affirmed
Jesson, Judge***

Hennepin County District Court
File No. 27-JV-24-1915

Cathryn Middlebrook, Chief Appellate Public Defender, Laura G. Heinrich, Assistant Public Defender, St. Paul, Minnesota (for appellant C.L.B.)

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

Mary F. Moriarty, Hennepin County Attorney, Robert I. Yount, Assistant County Attorney, Minneapolis, Minnesota (for respondent state)

Considered and decided by Slieter, Presiding Judge; Frisch, Chief Judge; and
Jesson, Judge.

NONPRECEDENTIAL OPINION

JESSON, Judge

This appeal centers on appellant C.L.B.’s failure to timely serve his restitution affidavit, resulting in the district court’s denial of his request for a contested hearing and subsequent restitution order. C.L.B., a juvenile who received a stay of adjudication for motor-vehicle theft, argues that the district court erred by concluding that it could not

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

conduct the hearing because he failed to timely serve his restitution affidavit. He further asserts that his attorney's failure to timely serve a restitution affidavit was ineffective assistance of counsel. Because the district court did not err in its refusal to hold the contested restitution hearing and the failure to comply with the affidavit deadline was not ineffective assistance of counsel, we affirm.

FACTS

Following an incident in June 2024, the state filed a delinquency petition charging 14-year-old C.L.B. with theft of a motor vehicle. Based on an agreement with the state, C.L.B. waived his trial rights and admitted to the elements of the offense, and he received a stay of adjudication for six months with unsupervised probation. The district court ordered a restitution study.

A restitution report was filed on December 17, indicating a restitution request of \$6,115 based on an affidavit from the owner of the vehicle. Three days later, the district court ordered C.L.B. to pay the requested amount. On December 23, C.L.B. filed a motion challenging the restitution amount; he disputed both the claimed amount of loss and his ability to pay. The district court scheduled a contested restitution hearing for Tuesday, February 4, 2025.

On Thursday, January 30, 2025, C.L.B. submitted a restitution affidavit. That same day, the state moved to strike the restitution hearing and enter a final judgment on restitution because C.L.B. had not complied with the statutory requirement to serve the affidavit at least five business days before the hearing. *See* Minn. Stat. § 611A.045, subd. 3(a) (2024). The district court conducted the hearing as scheduled but focused on the

state's motion. Counsel for C.L.B. acknowledged that the affidavit was untimely but argued that there was good cause to proceed, claiming that she was delayed in submitting the affidavit because of difficulties communicating with C.L.B. at his group home; alternatively, she asked the court to grant a continuance. The court denied both requests at the hearing. In a subsequent written order, the court noted counsel's efforts to coordinate with C.L.B. but explained: "There is not a good cause exception listed in the plain language of the juvenile or criminal restitution statutes nor was a request made by counsel with sufficient time prior to the hearing for the Court to fully consider such a request." Because C.L.B. did not "meet[] his burden of production with [a] timely affidavit," it denied his restitution challenge and ordered him to pay \$6,115 in restitution.

C.L.B. appeals.

DECISION

I. The district court did not err by concluding that it could not conduct a contested restitution hearing.

A victim of a crime has the right to receive restitution as part of the disposition of a juvenile-delinquency proceeding. Minn. Stat. § 611A.04, subd. 1(a) (2024); *In re Welfare of I.N.A.*, 902 N.W.2d 635, 640-42 (Minn. App. 2017), *rev. denied* (Minn. Nov. 28, 2017). If the juvenile challenges the amount of restitution, they have a burden of production that includes a "detailed" affidavit in which they "set[] forth all challenges to the restitution or items of restitution, and specif[y] all reasons justifying dollar amounts of restitution which differ from the amounts requested by the victim or victims."

Minn. Stat. § 611A.045, subd. 3(a). “The affidavit must be served on the prosecuting attorney and the court at least five business days before the hearing.” *Id.*

This five-day deadline is the focus of this appeal. The supreme court has described the timing language as “plain and unambiguous” and concluded that an affidavit served after that deadline is untimely, obviating any need to further address the challenge to restitution. *State v. Smith*, 876 N.W.2d 310, 336 (Minn. 2016). And more recently, we held that the deadline is not a jurisdictional requirement but a claim-processing rule. *State v. White*, 996 N.W.2d 206, 215 (Minn. App. 2023). This means that the deadline may be waived or forfeited, but it is “unalterable on a party’s application.” *Id.* at 213 (quoting *Eberhart v. United States*, 546 U.S. 12, 15 (2005)).

C.L.B. contends the district court erroneously denied his challenge to the amount of restitution because it concluded that his failure to comply with the deadline was jurisdictional, contrary to *White*. This assertion presents a question concerning the authority of the district court to order restitution, an issue we review de novo. *State v. Andersen*, 871 N.W.2d 910, 913 (Minn. 2015). De novo review here is particularly appropriate because the issue concerns the interpretation of applicable caselaw. *State v. O’Neill*, 945 N.W.2d 71, 76 (Minn. App. 2020), *rev. denied* (Minn. Aug. 11, 2020).

Our de novo review leads us to disagree with C.L.B. While C.L.B. briefly asserted at the hearing that the deadline was *not* jurisdictional, neither the district court’s oral remarks nor its written order described the deadline as jurisdictional. Rather, the court described it as mandatory, with no exceptions, which is consistent with *Smith* and *White*. Because C.L.B. undisputedly failed to comply with the affidavit deadline and the state did

not waive or forfeit the deadline, the district court did not err by enforcing it and denying C.L.B.’s challenge to restitution without a contested hearing.

II. The failure to comply with the affidavit deadline was not ineffective assistance of counsel.

Juvenile-delinquency proceedings “must measure up to the essentials of due process and fair treatment.” *In re Welfare of B.A.H.*, 845 N.W.2d 158, 163 (Minn. 2014) (quoting *In re Gault*, 387 U.S. 1, 30 (1967)). As part of that due-process right, juveniles have the right to effective assistance of counsel in delinquency proceedings. *Gault*, 387 U.S. at 41. When reviewing a claim that counsel provided ineffective assistance, we use the two-prong test articulated in *Strickland v. Washington*, 466 U.S. 668, 687 (1984). *State v. Ellis-Strong*, 899 N.W.2d 531, 535 (Minn. App. 2017); see *State v. Cram*, 718 N.W.2d 898, 906 (Minn. 2006) (applying *Strickland* to claim of ineffective assistance regarding restitution). That test requires a showing that (1) “counsel’s representation fell below an objective standard of reasonableness,” and (2) “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *State v. Mouelle*, 922 N.W.2d 706, 715 (Minn. 2019) (quotations omitted). And either prong may be dispositive. *Id.* “Application of the *Strickland* test involves a mixed question of law and fact, which we review de novo.” *Id.*

C.L.B. contends his trial counsel was ineffective in two respects: (1) she did not allow sufficient time to communicate with him to secure a restitution affidavit from him before the deadline, and (2) she “failed to stay abreast” of controlling precedent regarding

the court's authority to hear a restitution claim without a timely restitution affidavit. We address each issue in turn.

Timely Communication

C.L.B. contends counsel was objectively unreasonable in managing her communication with him, considering his known disabilities, because she did not start contacting him about the affidavit "immediately" after filing the restitution challenge. But he identifies no authority aside from the professional rule requiring reasonable communication with clients. *See* Minn. R. Prof. Conduct 1.4 (requiring a lawyer to "reasonably consult with" and "reasonably inform[]" a client). And counsel's description of her efforts to communicate with C.L.B., which he does not dispute, does not indicate that she failed to comply with this rule or otherwise was objectively unreasonable in communicating with him.

Counsel filed the motion challenging restitution on December 23, 2024, and the district court set a hearing date of February 4, 2025. This made January 28 the deadline for serving the affidavit. Because she knew that C.L.B. "has special needs," and she had limited ability to contact him at his group home, she began the process of trying to contact him to obtain the affidavit nearly two weeks before that deadline. On January 16 counsel contacted his program manager, explaining that she needed to obtain a restitution affidavit from C.L.B. "in the next 10 days," but received no response. She then attempted to contact C.L.B. by text message, phone call, and through others involved in his care, but was repeatedly stymied. In short, the record reflects that counsel made a concerted effort to

navigate her client’s challenging circumstances to secure the restitution affidavit. That she was unsuccessful does not make her efforts objectively unreasonable.

Knowledge of Controlling Precedent

C.L.B. also contends counsel was ineffective because she apparently “did not know about the holding in *White*” that the affidavit deadline is not jurisdictional. He is correct that “[a]n attorney’s ignorance of a point of law that is fundamental to his case combined with his failure to perform basic research on that point is a quintessential example of unreasonable performance under *Strickland*.” *State v. Babineau*, 23 N.W.3d 396, 411 (Minn. App. 2025) (quoting *Hinton v. Alabama*, 571 U.S. 263, 274 (2014)). But that is not the case here. While counsel did not cite *White* to the district court, she accurately argued the holding of that case—that the affidavit deadline is not jurisdictional. Moreover, as discussed above, the holding in *White* does not require a different result from the one the district court ordered, so failure to expressly invoke that case did not prejudice C.L.B. Accordingly, this claim of ineffective assistance of counsel also fails.

Affirmed.