

*This opinion is nonprecedential except as provided by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
A25-1083**

State of Minnesota,
Respondent,

vs.

Kristin Raye Roesler,
Appellant.

**Filed January 20, 2026
Reversed and remanded
Schmidt, Judge**

Washington County District Court
File No. 82-CR-22-3971

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

Kevin Magnuson, Washington County Attorney, Andrew Jackola, Assistant County Attorney, Stillwater, Minnesota (for respondent)

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

Considered and decided by Schmidt, Presiding Judge; Bratvold, Judge; and Bentley, Judge.

NONPRECEDENTIAL OPINION

SCHMIDT, Judge

After pleading guilty to theft-by-swindle, the district court ordered appellant Kristin Raye Roesler to pay \$90,000 in restitution to her mother's estate. On appeal, Roesler argues that the district court failed to consider her ability to pay. We reverse and remand.

FACTS

After Roesler's now-deceased mother—L.R.—discovered that Roesler was stealing money from L.R.'s bank account, L.R. omitted Roesler from her will and—after L.R. died—left the entire estate to Roesler's two brothers. Respondent State of Minnesota charged Roesler with felony theft-by-swindle, to which Roesler pleaded guilty.

The presentence investigation report (PSI) noted that Roesler stole \$94,539 from L.R. The PSI stated that: Roesler had no income, assets, or debts; she was unable to obtain a job due to her criminal record; and her “[h]ousing and financial sustenance [were] largely covered through her partner and his mother.” The PSI recommended that the district court order Roesler to pay \$90,000 in restitution to her brothers.

At sentencing, the district court stated that it planned “to follow the recommendations as outlined in the PSI.” The court issued an order for Roesler to pay \$45,000 in restitution to each of her brothers, \$90,000 in total.

Roesler challenged the restitution order and requested a contested restitution hearing, arguing that she did not owe money to her brothers but rather to L.R. After the contested hearing, the district court issued an amended order requiring Roesler to pay \$90,000 in restitution to L.R.'s estate.¹

Roesler appeals.

¹ Dissatisfied with the amended order, Roesler argued that she should receive another hearing because she only “took what would’ve been [hers].” The district court denied Roesler’s request for a second contested restitution hearing.

DECISION

On appeal, Roesler argues that the district court abused its discretion in awarding restitution because it failed to consider Roesler's ability to pay. We will not reverse a district court's restitution award absent an abuse of discretion. *State v. Andersen*, 871 N.W.2d 910, 913 (Minn. 2015).

Minnesota Statutes section 611A.045 (2024) requires the district court to consider, among other things, “the income, resources, and obligations of the defendant”—i.e., the defendant's ability to pay—when assessing a restitution award. Minn. Stat. § 611A.045, subd. 1(a)(2). For the district court to fulfill its statutory obligation to consider a defendant's ability to pay, the court must “expressly state, either orally or in writing, that it has considered [the] defendant's income, resources, and obligations when ordering restitution.” *State v. Wigham*, 967 N.W.2d 657, 659 (Minn. 2021).

“[T]he record must [also] 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.” *Id.* at 665. A PSI may provide sufficient evidence on ability to pay so long as the report “includes information about the defendant's income, resources, and obligations[.]” *Id.*

Here, the record lacks an express statement from the district court that it considered Roesler's ability to pay. The record also does not contain sufficient information to meaningfully inform a consideration of Roesler's ability to pay restitution.

The district court's statement that it intended to follow the PSI recommendations is not sufficient to satisfy its statutory obligation to consider Roesler's ability to pay. The

PSI noted that Roesler had no income or assets and that her expenses are covered by her partner and his mother. The PSI in this case does not support a determination that the district court considered her ability to pay prior to awarding restitution.

The district court also did not institute a payment plan that could otherwise demonstrate it considered Roesler's ability to pay. *See id.* at 666 (“[C]onsideration of a defendant's ability to pay may [also] be shown by including a restitution payment schedule or structure that reflects the defendant's ability to make the periodic payments.”). Instead, the district court ordered community corrections to establish a payment plan and that it “shall be incorporated into any probation agreement made herein.” Although having probation structure a payment plan may be indicitive of a court's consideration of ability to pay (*id.*), the record does not reveal that, in these circumstances, the district court expressly considered that it considered Roesler's ability to pay when ordering restitution.

We, therefore, reverse and remand for the district court to consider Roesler's “income, resources, and obligations in awarding and setting the amount of restitution” by expressly stating, “either orally or in writing, that it considered [Roesler's] ability to pay.” *Id.* at 664. Within its discretion, the district court may reopen the record to consider additional information in making this determination.²

Reversed and remanded.

² We express no opinion on the issue of whether Roesler has the ability to pay restitution.