

*This opinion is nonprecedential except as provided by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
A25-1324**

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

**Filed February 17, 2026
Reversed and remanded
Segal, Judge***

Dakota County District Court
File No. 19HA-JV-25-39

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

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respondent D.L.B.)

Considered and decided by Cochran, Presiding Judge; Connolly, Judge; and Segal,
Judge.

NONPRECEDENTIAL OPINION

SEGAL, Judge

Appellant State of Minnesota appeals the dismissal for lack of probable cause of the charge brought against respondent D.L.B. for aiding and abetting first-degree criminal damage to property. Because we conclude that the state put forward sufficient evidence to

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

establish probable cause that the property damage exceeded the \$1,000 threshold for a first-degree charge, we reverse and remand.

FACTS

At 9:50 p.m. on an evening in November 2024, police officers responded to a report that individuals were observed on top of the municipal water reservoir.¹ The reservoir, which is protected by a fence, holds approximately five million gallons of drinking water inside an enclosed tank. When police arrived, they saw what looked like a person's head pop up on top of the reservoir and then disappear below the hill. The officers then saw individuals running away from the site. When officers reached the top of the reservoir, they observed that the hatch lid was off, exposing the water to the elements. The lid looked as if it had been pried open and officers found a prybar nearby. The police located and arrested two juveniles, including D.L.B. A third juvenile turned himself in later that evening.

The three juveniles were interviewed by the police. One of the juveniles told police that the group had heard that there were fish inside the reservoir and that they wanted to see whether that was true. A second juvenile told police that he had taken pictures of the inside of the reservoir but denied that anything had been put in the water. D.L.B. admitted that he was at the reservoir but said that one of his friends had pried open the hatch. D.L.B. said that he had looked inside the reservoir and saw nothing but water.

¹ The facts are summarized from the evidence presented at the probable-cause omnibus hearing.

An investigator spoke with a representative of the regional water services. The representative advised that a “hatch alarm” was activated at 9:51 p.m. that same evening. Water services employees then went to the reservoir and secured the area. A representative observed that the water in the reservoir appeared to be clear all the way to the bottom and that there were no foreign objects inside the reservoir. Nevertheless, because of concern over possible contamination, the employees followed the standard procedure utilized when a hatch door is opened without authorization, which involves shutting down the reservoir, isolating the water in the reservoir from the main water supply, and having the Minnesota Department of Health test the water to determine if it is safe for drinking. After testing showed that there were no contaminants, the reservoir was brought back online.

The cost of labor for the response by the regional water services was \$2,468.00. The Department of Health costs for testing and labor totaled \$848.68.

The state charged D.L.B. with aiding and abetting first-degree criminal damage to property, trespassing, and fleeing a peace officer on foot. D.L.B. moved to dismiss the damage-to-property charge.² He argued that, since the water was not contaminated, the only property damage was to the hatch and lock and that the repair cost was less than the \$1,000 threshold for the first-degree charge.

The district court agreed, reasoning that, while it was “prudent” to isolate and test the water for safety, the relevant inquiry is on the culpability of the juveniles. Because the state offered no evidence that the juveniles intended to contaminate the water and the water

² D.L.B. also moved to dismiss the trespassing charge, which motion the district court denied. The district court’s ruling on the trespassing charge is not at issue in this appeal.

remained safe for drinking, the district court ruled that the costs of isolating and testing the water could not be counted in determining the amount of property damage. Consequently, the district court found that the state failed to put forward evidence to satisfy the \$1,000 threshold for a first-degree damage-to-property charge and dismissed the charge for lack of probable cause.

The state filed this pretrial appeal challenging the dismissal.

DECISION

Preliminarily, we must determine whether this appeal is authorized under the rules. In a juvenile delinquency proceeding, the state may appeal a dismissal for lack of probable cause, as of right, if “the dismissal was based solely on a question of law.” Minn. R. Juv. Delinq. P. 21.04. subd. 1(F). The issue in this appeal is one of statutory interpretation—whether the costs incurred in ensuring the safety of the water can be included in determining the amount of property damage caused by the offense. This presents a question of law. *See State v. Letourneau*, 23 N.W.3d 386, 391 (Minn. 2025) (stating that statutory interpretation presents question of law). The appeal by the state is thus authorized.

Turning now to the merits of the state’s appeal, “the test of probable cause is whether the evidence [that is] worthy of consideration . . . brings the charge against the [alleged offender] within reasonable probability.” *State v. Florence*, 239 N.W.2d 892, 896 (Minn. 1976) (quotation omitted). Probable cause requires only that the state demonstrate “a probability or substantial chance of criminal activity.” *State v. Harris*, 589 N.W.2d 782, 790-91 (Minn. 1999) (quotation omitted). The state does not have to prove each element

of an offense beyond a reasonable doubt at the probable cause phase. *Id.* We review de novo the dismissal of a criminal charge for lack of probable cause based on a legal determination. *See State v. Dixon*, 981 N.W.2d 387, 392 (Minn. 2022).

The issue presented in this appeal requires us to interpret the damage-to-property statute. The purpose of statutory interpretation is to ascertain and effectuate legislative intent. *See State v. Suspitsyn*, 941 N.W.2d 423, 427 (Minn. App. 2020), *rev. denied* (Minn. May 27, 2020). “If the [l]egislature’s intent is clear from the statute’s plain and unambiguous language, then [a court] interpret[s] the statute according to its plain meaning without engaging in further construction.” *Id.* (alteration in original) (quotation omitted); *see* Minn. Stat. § 645.16 (2024) (providing canons of statutory construction). We provide a “reasonable and sensible construction” to the criminal statute in question, presuming that the legislature “does not intend absurd or unreasonable results.” *Suspitsyn*, 941 N.W.2d at 427.

First-degree criminal damage to property is defined as “intentionally caus[ing] damage to physical property of another without the latter’s consent . . . if . . . the damage reduces the value of the property by more than \$1,000 measured by the cost of repair and replacement.” Minn. Stat. § 609.595, subd. 1(4) (2024). The sole issue presented in this appeal is whether the costs of isolating and testing the water for contamination can be included in calculating whether the amount of property damage to the water reservoir exceeds \$1,000.

The state argues that isolating and testing the water was a necessary repair cost resulting from the breach of the hatch and that the costs of repair are therefore properly

included in the damage calculation. The state maintains that it thus satisfied its burden to establish probable cause that the damage was more than \$1,000.

D.L.B. counters that the cost of isolating and testing the water cannot be considered in calculating the amount of damage because the water was not damaged—the water in the reservoir remained uncontaminated both before the hatch was pried open and after. D.L.B. argues that the only damage to property was the damage to the hatch cover and lock and, because the replacement cost was less than \$1,000, the state failed to establish probable cause to support a first-degree damage-to-property charge.

The parties' arguments turn on the meaning to be accorded the word "damage" in the statute. We note that neither the state nor D.L.B. argue that the word "damage" as used in the statute is ambiguous. And we agree that it is not ambiguous. When a word in a statute is unambiguous, we can look to the dictionary definition to apply the "plain and ordinary meaning." *State v. Prigge*, 907 N.W.2d 635, 638 (Minn. 2018) (quotation omitted). The American Heritage dictionary defines "damage" as meaning "[d]estruction or a loss in value, usefulness, or ability resulting from an action or event." *The American Heritage Dictionary of the English Language* 457 (5th ed. 2011); accord *New Oxford American Dictionary* 436 (3rd ed. 2010). Under this definition, property can be damaged if there is a loss in value or usefulness; the word "damage" does not require destruction.

Applying the definition to the facts of this case, we conclude that the water was "damaged" within the meaning of the statute when the hatch cover was pried open because there was a loss of usefulness of the water. Before the hatch was opened, the reservoir

contained approximately five million gallons of water that could be used in the municipal water supply. After the hatch was pried open, the reservoir contained water that could not be used in the water supply, at least not until it was tested and shown to be uncontaminated. The water thus lost usefulness and was thereby “damaged,” even though the testing later showed that the breach did not result in contamination.

We turn next to the question of whether the costs put forward by the state—the labor and costs involved in isolating and testing the water—can be counted as a “cost of repair and replacement” under the statute. Minn. Stat. § 609.595, subd. 1(4). According to its plain and ordinary meaning, “repair” includes restoring the property to its original condition. *See American Heritage, supra*, at 1488 (defining “repair” as “[t]o restore to sound condition after damage or injury; fix”). And caselaw establishes that the word “repair” under the statute encompasses labor costs and not just out-of-pocket expenses. *State v. DeYoung*, 672 N.W.2d 208, 213 (Minn. App. 2003) (concluding that the victim’s labor in repairing property herself can be used in calculating the costs of repair); *State v. Powers*, 962 N.W.2d 853, 857, 859-60 (Minn. 2021) (holding that the “cost of repair and replacement” includes estimates to repair property even if repairs were not made).

Here, the state asserted and the district court did not find otherwise, that these costs were necessary to restore the water to its original condition—water that was safe to use in the municipal water supply. We therefore conclude that the costs of isolating and testing the water are costs that can be counted in calculating the amount of property damage under the statute. As such, the state has established probable cause that the property damage was

in excess of \$1,000. Nevertheless, it should be noted that our conclusion does not prevent D.L.B. from challenging at trial the state's contention that the amount of property damage exceeded \$1,000. The amount of damage is still an element of the first-degree damage-to-property charge that the state ultimately must prove beyond a reasonable doubt. We hold only that the evidence is sufficient to allow the first-degree damage-to-property charge to proceed to trial.

Reversed and remanded.