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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0541**

In the Matter of the Welfare of: L.F.M., Child.

**Filed October 28, 2013
Affirmed
Stoneburner, Judge**

Rice County District Court
File No. 66JV121677

David Merchant, Chief Appellate Public Defender, Susan Andrews, Assistant Public Defender, St. Paul, Minnesota (for appellant L.F.M.)

Lori Swanson, Attorney General, St. Paul, Minnesota; and

G. Paul Beaumaster, Rice County Attorney, Terence J. Swihart, Assistant County Attorney, Faribault, Minnesota (for respondent State)

Considered and decided by Bjorkman, Presiding Judge; Peterson, Judge; and Stoneburner, Judge.

UNPUBLISHED OPINION

STONEBURNER, Judge

Appellant juvenile challenges the validity of a restitution order, arguing that the order must be vacated because the juvenile court failed to make specific findings about his ability to pay and failed to explain why restitution is necessary to his rehabilitation. Because the record reflects that the juvenile court considered appellant's ability to pay

restitution and stated that the disposition ordered serves to hold the juvenile accountable and restore him to law-abiding conduct, we affirm.

FACTS

A delinquency petition was filed against appellant L.F.M., alleging that L.F.M. is delinquent for having committed first-degree damage to property. Specifically, the petition alleged that L.F.M. was one of three juveniles who damaged a car by hitting it with skateboards. L.F.M. admitted allegations of third-degree damage to property contained in an amended petition. The juvenile court accepted his admission, adjudicated him delinquent, and ordered Rice County Community Corrections to prepare a juvenile pre-disposition investigation report.

The report noted that L.F.M., who was born in 1998, was “too young for employment,” but nonetheless recommended a disposition that included restitution in the amount claimed by the owner of the car: \$3,089.62. The report recommended that L.F.M. be allowed to work off a portion of this amount through the Juvenile Restitution Work Program. The report assessed L.F.M. at a high risk to reoffend without intervention.

At the disposition hearing, the juvenile court considered the report and an affidavit submitted by the owner of the car, detailing the damage and repair costs. The juvenile court ordered, in relevant part, restitution in the amount claimed by the owner and

provided that part of that amount could be paid off through the juvenile work program.¹

L.F.M. requested a restitution hearing, arguing that the restitution award was excessive.

The restitution hearing was not conducted by the same judge who issued the disposition order. At the restitution hearing, the car owner testified about the damage to his car and the cost of repair, and L.F.M. testified that he hit the car only four times, causing a dent on the hood and back passenger side of the vehicle. L.F.M. testified that the majority of the damage was done by his friends, who were acting independently. L.F.M. testified that he was not employed. The juvenile court affirmed the original restitution order in an oral ruling from the bench. A written order, denying L.F.M.'s restitution challenge (restitution order), was prepared for the signature of the judge who signed the disposition order. Another hearing was held by that judge, who ultimately signed the restitution order. The order references Minn. Stat. § 609.05, subd. 1 (2010) (making a person criminally liable for aiding and abetting the crimes of another), noting that this statute applies to any restitution to which a victim is entitled under Minn. Stat. § 611A.04 (2010). This appeal followed.

D E C I S I O N

Restitution in juvenile matters is governed by both the restitution provision of the delinquency statutes and by the general restitution statute. *In re Welfare of H.A.D.*, 764 N.W.2d 64, 66 (Minn. 2009) (citing Minn. Stat. §§ 260B.198, subd. 1(5) (2008), 611A.04, subd. 1 (2008)). Application of these statutes to undisputed facts is a question

¹ The order also held L.F.M.'s father jointly and severally liable for \$1,000, pursuant to Minn. Stat. § 540.18, subd. 1 (2010).

of law that is reviewed by an appellate court de novo. *Id.* In general, however, a district court has broad discretion in restitution awards. *State v. Palubicki*, 727 N.W.2d 662, 666 (Minn. 2007).

“[I]f the child is found to have violated a state or local law or ordinance which has resulted in damage to the person or property of another, the court may order the child to make reasonable restitution for such damage” as long as such a disposition is “deemed necessary to the rehabilitation of the child.” Minn. Stat. § 260B.198, subd. 1(5) (2010); see Minn. Stat. § 611A.04, subd. 1(a) (2010) (providing that a crime victim has a right to receive restitution as part of the disposition of a juvenile delinquency proceeding).

“[W]hile restitution may have the dual purpose of rehabilitating the defendant and compensating the victim, the primary purpose is to compensate victims.” *State v. Maidi*, 537 N.W.2d 280, 286 (Minn. 1995) (citation omitted).

In determining whether to order restitution, the district court must consider:

“(1) the amount of economic loss sustained by the victim as a result of the offense; and (2) the income, resources, and obligations of the defendant.” Minn. Stat. § 611A.045, subd. 1(a) (2010). Inadequate written findings in juvenile disposition orders constitute reversible error. Minn. Stat. § 260B.198, subd. 1(13) (2010); *In re Welfare of N.T.K.*, 619 N.W.2d 209, 211-12 (Minn. App. 2000).

L.F.M. argues that the restitution order in this case must be vacated because the juvenile court failed to make specific findings about his ability to pay. L.F.M. asserts that the lack of specific findings demonstrates that the juvenile court failed to consider his ability to pay. L.F.M. asserts that he is not able to pay restitution because he is

unemployed and has no codefendants who share responsibility for restitution.² L.F.M. also argues that the disposition order is defective because there are no findings detailing how paying restitution for all of the damage to the car will contribute to his rehabilitation.³

Noting that “Minnesota Statute § 611A.045 is not explicit as to how the court must consider the income, resources, and obligations [of the defendant] when imposing the restitution order,” the supreme court has concluded “that the legislature intended to give the courts wide flexibility to structure restitution orders that take into account a defendant’s ability to pay.” *Maidi*, 537 N.W.2d at 285-86. A district court does not abuse its discretion by ordering restitution without specific findings regarding the defendant’s ability to pay, even if there is a potential financial hardship to the defendant. *State v. Jola*, 409 N.W.2d 17, 20 (Minn. App. 1987).

The record in this case demonstrates that the juvenile court thoroughly reviewed the pre-disposition report that provided information about L.F.M., including the fact that, because of his youth, he was not employed and was eligible for the juvenile work program. Additionally, the juvenile court heard arguments about the amount of damage caused by the simultaneous action of the three friends hitting the car with skateboards and the issue of L.F.M.’s liability for aiding and abetting the actions of his friends. And by

² L.F.M. also asserts that his father cannot be held liable for any portion of L.F.M.’s restitution and asserts that the juvenile court misapplied Minn. Stat. § 540.18, subd. 1, to impose personal liability on his father for the criminal damage caused by L.F.M. Because this issue was not adequately briefed, it is waived, and we will not consider it. *McKenzie v. State*, 583 N.W.2d 744, 746 n.1 (Minn. 1998).

³ L.F.M.’s assertion that he should not be liable for the damage caused by his friends is also waived on appeal due to inadequate briefing.

permitting L.F.M. to work off a portion of the restitution in the juvenile work program, the juvenile court's order permitted flexibility in consideration of L.F.M.'s financial circumstances.

The order denying L.F.M.'s restitution challenge incorporates the juvenile court's detailed disposition order. The disposition order contains a finding that L.F.M. has significant behavioral issues and is "at a high risk to reoffend without intervention," and concludes that the disposition ordered "is necessary and is in the best interest of [L.F.M.] and public safety, as it serves to hold [L.F.M.] accountable for his actions and to restore [L.F.M.] to law abiding conduct." We conclude that the juvenile court's findings are sufficient to support the disposition.

Affirmed.