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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A06-2049**

State of Minnesota,  
Respondent,

vs.

Nicketa Woodson,  
Appellant.

**Filed January 29, 2008  
Reversed  
Wright, Judge**

Ramsey County District Court  
File No. T2-04-24955

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Considered and decided by Willis, Presiding Judge; Wright, Judge; and Muehlberg, Judge.\*

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

## **UNPUBLISHED OPINION**

**WRIGHT**, Judge

Appellant challenges the district court's order of restitution, arguing that the findings on remand are insufficient to establish that the driver of the vehicle with which her car collided is a "victim" under the restitution statutes, Minn. Stat. §§ 611A.01, 611A.04 (2002). We reverse.

### **FACTS**

Following a traffic accident, appellant Nicketa Woodson was cited for driving a motor vehicle without insurance, a violation of Minn. Stat. § 169.797, subds. 3, 4 (2002); and unsafe change of course, a violation of Minn. Stat. § 169.19, subd. 4 (2002). In accordance with her plea agreement, the unsafe-change-of-course charge was dismissed, and Woodson pleaded guilty to driving without insurance. The district court imposed a fine and a ten-day sentence, which was stayed to probation for one year. The district court also referred the matter to the Department of Probation to determine whether Woodson should be ordered to pay restitution to Robert Tran, the other driver in the accident.

In a civil lawsuit filed against Woodson, Tran's mother sought the cost of repairing the damage to the vehicle. After a contested hearing, the conciliation court referee determined that Tran was at fault for the accident and, therefore, Woodson was not liable for the damage to his vehicle. After the loss in conciliation court, Tran sought restitution in the criminal case. The district court held a contested restitution hearing

limited to the issue of damages. But the district court declined to receive any evidence on the issue of liability, finding it irrelevant to restitution. The district court determined that Tran was entitled to restitution and adopted the probation officer's calculation of \$4,706.27 as the repair cost.

Woodson appealed, arguing that the district court abused its discretion by ordering restitution because it had not determined that Tran was a "victim" for purposes of the restitution statutes. *State v. Woodson*, A05-772, 2006 WL 1390165, \*1 (Minn. App. 2006) (*Woodson I*). We reversed in an unpublished opinion, holding:

Because there was never a liability determination in this matter, the district court's finding that "Ramsey County Probation concluded that [Woodson] should pay restitution" is not supported by the record. We therefore reverse and remand. On remand, the district court may hold an evidentiary hearing or refer the matter to the probation department for a recommendation. But ultimately the district court should determine whether restitution is warranted.

*Id.* at \*3.

On remand, the district court referred the restitution issue to the probation department, which provided the district court a written recommendation. The probation department determined that restitution was appropriate in the amount previously calculated based on its findings that Woodson had been cited for unsafe change of course, that she did not have insurance when the accident happened, and that Tran's insurer found Woodson at fault. The conciliation-court judgment was specifically excluded from consideration.

At a second contested restitution hearing, the district court adopted the findings in the recommendation, stating that “[p]robation has determined that restitution is due and owing by the fact that [Woodson] did not have insurance.” The district court made no other findings and declined to consider the evidence Woodson offered on the issue of liability, which included the conciliation-court judgment finding Tran at fault, a letter from a probation department official purportedly stating that the probation officer who prepared the recommendation was not competent to assess fault in a traffic accident, and an accident-reconstruction report. The district court also extended Woodson’s probation for an additional year. This appeal followed.

## **D E C I S I O N**

Woodson argues that the district court abused its discretion by awarding restitution because Tran is not a “victim” within the meaning of the restitution statutes. “A victim of a crime has the right to receive restitution as part of the disposition of a criminal charge . . . against the offender if the offender is convicted.” Minn. Stat. § 611A.04, subd. 1(a) (2004); *see also In re Welfare of J.A.D.*, 603 N.W.2d 844, 846 (Minn. App. 1999) (stating that only victim of defendant’s crime has the right to receive restitution). A district court has broad discretion in deciding whether to award restitution if there is a factual basis that establishes “the nature and amount of the [victim’s] losses with reasonable specificity.” *State v. Thole*, 614 N.W.2d 231, 234 (Minn. App. 2000). A district court abuses its discretion by awarding restitution to a person who does not meet the statutory requirements to be a victim. *State v. Esler*, 553 N.W.2d 61, 65 (Minn. App.

1996), *review denied* (Minn. Oct 15, 1996). Whether a person seeking restitution meets those requirements is a question of law, which we review de novo. *See In re Welfare of M.R.H.*, 716 N.W.2d 349, 351 (Minn. App. 2006) (noting that application of restitution statutes to particular claim is a question of law), *review denied* (Minn. Aug. 15, 2006).

A “victim” is defined as “a natural person who incurs loss or harm as a result of a crime.” Minn. Stat. § 611A.01(b) (2004). Such loss or harm must be a direct result of the specific conduct for which the defendant was convicted. *State v. Latimer*, 604 N.W.2d 103, 105 (Minn. App. 1999) (requiring direct causation); *State v. Dendy*, 520 N.W.2d 411, 414 (Minn. App. 1994) (prohibiting indirect causation); *see also* Minn. Stat. §§ 611A.01(a), 609.02, subd. 1 (2004) (defining “crime” as conduct prohibited by statute and punishable by imprisonment). Because the primary purpose of restitution is “to restore crime victims to the same financial position they were in before the crime,” *State v. Palubicki*, 727 N.W.2d 662, 666 (Minn. 2007), the state must prove not only a loss or harm, but also that the defendant caused the loss or harm by engaging in the proscribed conduct. *See State v. O’Brien*, 459 N.W.2d 131, 133 (Minn. App. 1990) (noting that the word “restitution” connotes recovering something wrongfully taken).

Whether a defendant’s crime directly caused the purported victim’s loss requires the district court to identify the specific conduct prohibited by the applicable criminal statute. In *Dendy*, for example, a landlord sought restitution for a door that the police damaged during a forced entry into a residence to arrest the defendant for possession of cocaine. 520 N.W.2d at 412. Although the damage resulted in an actual economic loss,

the landlord was not a “victim” of “[the defendant]’s possession of cocaine—as opposed to the officers’ forced entry.” *Id.* at 414. Similarly, in *Latimer*, the defendant was convicted as an accessory after-the-fact to murder because she assisted in the subsequent cover-up of the crime. 604 N.W.2d at 105. We held that restitution was appropriate for any losses that were directly caused by the defendant’s role in the cover-up but that the defendant was not accountable for losses caused by the murder itself. *Id.*

The out-of-pocket cost of repairing Tran’s vehicle was an actual economic loss. But Woodson was not convicted based on her role in the accident that caused the damage;<sup>1</sup> she was convicted of driving an uninsured vehicle. *See* Minn. Stat. §§ 65B.48 (2006) (setting minimum insurance requirements), 169.797, subd. 2 (making driving uninsured vehicle a misdemeanor); *see also State v. Fairchild*, 444 N.W.2d 572, 573 (Minn. App. 1989) (noting that criminal driving-without-insurance statute is enforcement mechanism for mandatory-insurance law). To be a “victim” under the restitution statutes, Tran must have incurred a loss directly caused by the conduct underlying Woodson’s conviction. Thus, Tran is entitled to restitution only if he would have been compensated for the out-of-pocket loss if Woodson’s vehicle had been insured.

Without any legal authority, the state argues that Woodson’s failure to have insurance directly caused Tran’s loss because, if Woodson had been insured, “the no-fault

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<sup>1</sup> The state dismissed the unsafe-change-of-course charge.

system would have alleviated any economic detriment sustained by the Tran family.”<sup>2</sup> We disagree. Woodson was convicted of driving a vehicle that was not insured “against loss resulting from liability imposed by law for . . . property damage sustained by any person arising out of the . . . operation or use of the vehicle.” Minn. Stat. §§ 65B.48, subd. 1, 169.797, subd. 3. An insurer is liable to pay only those “sums which the insured is legally obligated to pay as damages because of . . . property damage arising out of” the use of a motor vehicle. Minn. Stat. § 65B.49, subd. 3(2) (2006). Mandatory liability insurance ensures “that if the insured vehicle is the at-fault vehicle in an accident, there will be liability coverage.” *Widness*, 635 N.W.2d at 521. Thus, if Woodson had insurance when the accident occurred, her insurer would have been liable only if Woodson were driving the at-fault vehicle. *See id.* The conciliation-court judgment determined that Woodson was not at fault. Therefore, even if Woodson had insurance, the insurer would not have been liable for any payment to Tran.

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<sup>2</sup> The state apparently presumes from the title of the No-Fault Act that, if Woodson had insurance when the accident occurred, Tran would be entitled to compensation from Woodson’s insurer regardless of whether he was at fault for the accident. The state’s argument is without merit.

“[T]he No-Fault Act did not alter the basic framework of liability law.” *Progressive Specialty Ins. Co. v. Widness ex rel. Widness*, 635 N.W.2d 516, 522 (Minn. 2001). No-fault insurance is generally limited to first-party benefits. *Stewart v. Illinois Farmers Ins. Co.*, 727 N.W.2d 679, 683 n.1 (Minn. App. 2007). In the event of an accident, no-fault insurance eliminates the insured’s need to prove that the other party is liable before receiving benefits from one’s own insurer. *Id.* Even if Woodson were insured at the time of the accident, her inability to receive first-party benefits under her policy without having to establish Tran’s fault in the accident would have no possible effect on his loss.

In *Woodson I*, we remanded for a determination of Woodson’s liability—that is, whether she was at fault for the accident. 2006 WL 1390165, at \*2-\*3. In doing so, the district court had the option to hold an evidentiary hearing or refer the matter to the probation department for a recommendation. *Id.* at \*3. But however it chose to go about its fact-finding, we directed the district court to determine whether restitution is warranted because it had not addressed whether Tran was a “victim.” *Id.* at \*2-\*3 (noting that initial inquiry as to “whether or not Tran was a ‘victim’ under the statute, based on a liability determination” did not occur). We now consider whether the district court’s findings on remand provide an adequate factual basis for ordering restitution.

At the post-remand restitution hearing, the district court adopted the probation department’s written findings. The probation department found that restitution was appropriate because (1) Woodson “was cited for Unsafe Change of Course at the scene of the accident”; (2) Woodson did not have insurance when the accident happened; and (3) Tran’s liability-insurance provider “found . . . Woodson to be at fault for the accident” and paid Woodson’s third-party claim only after the conciliation court entered judgment in her favor. This factual basis is insufficient to conclude, as the district court did, “that restitution is due and owing by the fact that [Woodson] did not have insurance.” That Woodson did not have insurance is not probative of whether that insurance would have covered Tran’s loss based on Woodson’s liability. *Cf.* Minn. R. Evid. 411 (“Evidence that a person was or was not insured against liability is not admissible upon the issue whether the person acted negligently or otherwise wrongfully.”). Without more, that



Woodson was cited for a traffic violation, which was ultimately dismissed, also is an insufficient factual basis to support the restitution order. *Cf. Krueger v. State Farm Fire & Cas. Co.*, 510 N.W.2d 204, 210-11 (Minn. App. 1993) (noting that general rule excluding evidence of arrest, nonprosecution, or acquittal also applies to traffic citations). Moreover, Tran's insurer's conclusory "finding" that Woodson was at fault is entirely unsupported and contrary to the insurer's ultimate decision to pay Woodson's third-party claim.

The district court declined to consider the conciliation-court judgment, which expressly found that Tran, not Woodson, was at fault for the accident. The state maintains that this was necessary because the restitution statute provides that a "civil action involving the alleged crime shall not be used by the court as a basis to deny a victim's right to obtain court-ordered restitution." Minn. Stat. § 611A.04, subd. 1(a). But the state misconstrues the salient issue, which is whether Tran is a "victim." Indeed, the district court could not use the civil judgment as a basis to deny Tran's right to obtain court-ordered restitution if, in fact, Tran were a "victim." *Id.* But it is clear from the record that the conciliation court determined Tran to be at fault based on the evidence regarding the accident, finding that Woodson "was well within the intersection prior to [Tran] leaving the stop sign." Without any evidence in the restitution matter that even controverts this determination, Tran does not meet the restitution statutes' definition of a "victim" and restitution was awarded without an adequate factual basis.

In sum, Tran is not a “victim” under the restitution statutes because the specific conduct for which Woodson was convicted—driving a motor vehicle without insurance—did not cause Tran’s loss. In light of our decision, we need not address Woodson’s argument that the district court improperly extended the length of her probation without making the requisite findings to support this action.

**Reversed.**