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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1986**

State of Minnesota,
Respondent,

vs.

Nicholas Wade Wight,
Appellant.

**Filed September 16, 2008
Reversed and remanded
Shumaker, Judge**

St. Louis County District Court
File No. 69-VI-CR-06-566

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134; and

Melanie Ford, St. Louis County Attorney, 100 N. 5th Avenue W., Suite 501, Duluth, MN 55802-1298 (for respondent)

Lawrence Hammerling, Chief Appellate Public Defender, F. Richard Gallo, Jr., Assistant Public Defender, 540 Fairview Avenue North, Suite 300, St. Paul, MN 55104 (for appellant)

Considered and decided by Schellhas, Presiding Judge; Shumaker, Judge; and Hudson, Judge.

UNPUBLISHED OPINION

SHUMAKER, Judge

Appellant appeals a restitution order, arguing that the district court erred by ordering restitution without the requisite supporting information as required by statute. Additionally, appellant argues that the district court erred by not holding an evidentiary hearing when he objected to the restitution order. Because the record is insufficient to satisfy the statutory requirements of restitution, and because the court erred by failing to hold an evidentiary hearing on appellant's objection, we reverse and remand.

FACTS

Appellant Nicholas Wade Wight and another defendant used a pellet gun to shoot at the windows of businesses, homes, and parked cars throughout several cities in St. Louis County. Wight pleaded guilty to one count of criminal damage to property in the first degree and one count of drive-by shooting. At sentencing, the district court left restitution open. Thereafter, the court issued a restitution order and an amended order, each of which lists the names of 30 victims and the dollar amounts of restitution awarded to each. The court records also contain documents entitled "Restitution Information," which list the names and addresses of the victims and the dollar amounts of the losses claimed by each victim. The record contains no additional details of the victims' losses.

Within 30 days after receiving the original restitution order, Wight wrote to the clerk of the district court requesting information regarding the order, the appointment of an attorney, and paperwork to appeal. In response, the clerk informed Wight that the public defender's office does not represent parties on the issue of restitution. The clerk

did not provide any further information as to the court order and did not schedule a hearing on the matter. This appeal followed.

DECISION

Wight argues that the district court erred by ordering restitution without sufficiently detailed supporting information. A district court has broad discretion in awarding restitution. *State v. Tenerelli*, 598 N.W.2d 668, 671 (Minn. 1999). However, whether a particular claim for restitution fits the statutory definition is a question of law. *State v. Thole*, 614 N.W.2d 231, 234 (Minn. App. 2000). This court reviews questions of law de novo. *Id.*

The restitution statute requires that the victim submit, through affidavit or other competent evidence, (1) the items of loss, (2) the amount of the restitution claimed, and (3) the specific reasons justifying the amount. Minn. Stat. § 611A.04, subd. 1(a) (2006). This statute does not require receipts or proof of exact purchase price. *State v. Keehn*, 554 N.W.2d 405, 408 (Minn. App. 1996), *review denied* (Minn. Dec. 17, 1996). Rather, it requires “a list . . . with reasonable specificity describing the items or elements of loss and the dollar amounts of those losses.” *Id.*

In *Keehn*, the victim’s affidavit alleged relocation expenses but failed to list or itemize losses. *Id.* The affidavit claimed a single amount for miscellaneous cash receipts for purchases to set up a new household, as well as various other deposits and amounts. *Id.* at 407. We held that the statute required the victim to provide “some amount of detail” as to the replacement items purchased and the approximate cost of the items,

concluding that a vague description in the affidavit “falls short of the statutory demand for an itemized description of the losses and their value.” *Id.* at 408.

Here, the restitution orders list the names of 30 victims and the total dollar amount claimed by each. The court record does not contain victim affidavits or any other evidence describing with specificity the items or elements of the losses. The “Restitution Information” documents are not affidavits because they are not sworn statements by the victims themselves, and they also fail to provide the requisite specificity. Because of the lack of specificity in the record, we are left to guess as to what in particular was damaged and why and how the amounts claimed relate to the damaged items.

Wight also argues that the district court erred by not holding an evidentiary hearing on his objection to restitution. Because this issue involves the interpretation of a statute, it is reviewed *de novo*. *Tenerelli*, 598 N.W.2d at 671. The restitution statute states, “At the sentencing or dispositional hearing, the court *shall* give the offender an opportunity to respond to specific items of restitution and their dollar amounts in accordance with the procedures established in section 611A.045, subdivision 3.” Minn. Stat. § 611A.04, subd. 1(a) (emphasis added); *see* Minn. Stat. § 645.44, subd. 16 (2006) (legislature’s use of the word “shall” indicates that provisions are mandatory rather than permissive). Therefore, Wight has a statutory right to challenge a restitution order.

A defendant, however, must request a hearing within 30 days of receiving written notice of the amount claimed. Minn. Stat. § 611A.045, subd. 3(b) (2006).

Within 30 days of receiving the original restitution order, Wight wrote to the clerk of the district court, requesting “the necessary papers to file a[n] appeal of this order. Because I do want to appeal this order.” The clerk did not provide any further information as to the court order and did not schedule a hearing on the matter.

Wight was acting pro se when he indicated that he wanted to “appeal” the restitution order. Generally, pro se litigants are held to the same standard as attorneys. *Heinsch v. Lot 27, Block 1 For’s Beach*, 399 N.W.2d 107, 109 (Minn. App. 1987). However, courts may provide some latitude. *Liptak v. State ex rel. City of New Hope*, 340 N.W.2d 366, 367 (Minn. App. 1983). Wight’s letter to the clerk of court sufficiently registered his objection to the restitution order and, at least implicitly, his desire for a hearing on it. It was error for the court not to hold a hearing on Wight’s objection. Thus, we remand for further proceedings consistent with our holdings.

Reversed and remanded.