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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A17-1426**

State of Minnesota,  
Respondent,

vs.

Colton Tyler Boettcher,  
Appellant

**Filed November 12, 2019  
Reversed and remanded  
Stauber, Judge\***

St. Louis County District Court  
File No. 69DU-CR-16-805

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

Mark S. Rubin, St. Louis County Attorney, Victoria D. Wanta, Assistant County Attorney,  
Duluth, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Chang Y. Lau, Assistant State  
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Cleary, Chief Judge; Reilly, Judge; and Stauber, Judge.

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

## UNPUBLISHED OPINION

**STAUBER**, Judge

On remand from the Minnesota Supreme Court, appellant challenges the district court's restitution order. He asserts that the destruction by fire of a cabin and a camper for which restitution was ordered was not a direct result of the burglary of which he was convicted and that restitution was therefore inappropriate. We reverse and remand.

### FACTS

In December 2014, a cabin and camper were destroyed by fire in St. Louis County. Images taken from motion-activated trail cameras on the land where the cabin was located revealed that several people had entered the cabin and then left it ablaze. Appellant Colton Tyler Boettcher and two friends were charged in connection with the destruction of the cabin and camper. Boettcher specifically was charged with one count of first-degree arson (for the cabin), one count of first-degree arson (for the camper), and one count of second-degree burglary. The case went to trial. After the state presented its case, the district court granted Boettcher's motion for judgment of acquittal regarding the camper-related arson charge and dismissed it with prejudice. The jury convicted Boettcher of second-degree burglary but was unable to reach a verdict on the first-degree arson charge for the cabin. The state declined to retry Boettcher on the arson charge. However, the district court ordered that Boettcher pay restitution for the losses caused by the fire.

Boettcher appealed the restitution order, and we affirmed. *State v. Boettcher*, No. A17-1426 (Minn. App. May 14, 2018), *reversed*, 931 N.W.2d 376 (Minn. 2019). Boettcher successfully petitioned the Minnesota Supreme Court for review of our decision. The

supreme court then filed an opinion reversing our decision and remanding the case to this court, reasoning that in determining whether the fire resulted from the burglary we erroneously applied a factual-relationship standard rather than a direct-causation standard. *Boettcher*, 931 N.W.2d at 377.

## DECISION

“A district court has broad discretion to award restitution, and the district court’s order will not be reversed absent an abuse of that discretion.” *State v. Andersen*, 871 N.W.2d 910, 913 (Minn. 2015). “But questions concerning the authority of the district court to order restitution are questions of law subject to de novo review.” *Id.*

Specifically, Boettcher argues that because he was convicted of burglary with a predicate offense of theft—and was not convicted of either arson charge—the district court abused its discretion by ordering that he pay for the destroyed cabin and camper as restitution. “A victim of a crime has the right to receive restitution as part of the disposition of a criminal charge or juvenile delinquency proceeding against the offender if the offender is convicted or found delinquent.” Minn. Stat. § 611A.04, subd. 1(a) (2018). But restitution may only be ordered “for losses that *result* from the crime.” *Boettcher*, 931 N.W.2d at 380. Minnesota courts apply the direct-result standard when determining whether losses “result” from a crime. *Id.* at 380-81. Importantly, but-for causation is *not* used when applying the direct-result standard “because it would create a potential ‘for a restitution claim to become so attenuated in its cause that it cannot be said to result from the defendant’s criminal act.’” *Id.* at 380-81 (quoting *State v. Palubicki*, 727 N.W.2d 662, 667 (Minn. 2007)). Instead, the Minnesota Supreme Court has defined “result” as “‘follows naturally from’ and ‘to happen

as a consequence,” meaning that courts must “consider the economic loss sustained by the victim as a consequence of the defendant’s violation of the law.” *Id.* at 381 (quotations omitted).

We conclude that under the direct-result standard, the destruction of the cabin and camper by fire were not losses that resulted from the crime of second-degree burglary. A person is guilty of second-degree burglary if the person enters a dwelling “without consent and with intent to commit a crime.” Minn. Stat. § 609.582, subd. 2(a)(1) (2014). Boettcher was convicted of entering the cabin without consent and with intent to commit theft. Under the current state of the law, Boettcher may only be ordered to pay restitution for economic losses sustained by the victims which “follow naturally from” and “happen as a consequence of” the crime of which he was convicted. *Boettcher*, 931 N.W.2d at 381 (quotation omitted). Thus, he could be ordered to pay restitution for any economic losses incurred through forcing entry into the cabin or theft because those losses would have followed naturally from the crime of which he was convicted. But, even if they are factually connected, economic losses resulting from the fire damage here are too attenuated from the crime of which Boettcher was actually convicted because they “cannot be said to result from [Boettcher’s] criminal act” of entering a dwelling without consent and with intent to commit theft. *See id.* (quotation omitted). We simply cannot conclude that the destruction by fire of the cabin and the camper followed naturally from Boettcher’s crime of burglary with the intent to commit theft. Accordingly, we reverse and remand for the district court

to vacate any portion of the restitution order that is not directly related to Boettcher's second-degree burglary conviction.

**Reversed and remanded.**