Nebraska Supreme Court Online Library
www.nebraska.gov/apps-courts-epub/
10/08/2026 02:13 AM CDT

STATE OF NEBRASKA, APPELLEE, V. JOSHUA CARPENTER, APPELLANT.

___ N.W.3d ___

Filed October 2, 2026. No. S-25-684.

1. **Statutes: Appeal and Error.** Statutory interpretation is a question of law that an appellate court resolves independently of the trial court.
2. **Sentences: Appeal and Error.** Whether a sentence is authorized by statute presents a question of law, which an appellate court reviews de novo.
3. **Criminal Law: Restitution.** In the context of criminal sentencing, restitution is purely statutory and a court has no power to issue such an order in the absence of enabling legislation.
4. **Criminal Law: Sentences: Restitution.** Neb. Rev. Stat. §§ 29-2280 through 29-2289 (Reissue 2016 & Cum. Supp. 2024) govern a sentencing court's authority to order restitution in a criminal case.
5. **Moot Question: Jurisdiction.** Mootness is a justiciability doctrine that operates to prevent courts from exercising jurisdiction.
6. **Moot Question: Words and Phrases.** A moot case is one that seeks to determine a question that no longer rests upon existing facts or rights—i.e., a case in which the issues presented are no longer alive.
7. **Moot Question.** The central question in a mootness analysis is whether changes in circumstances have forestalled any occasion for meaningful relief.
8. **Statutes.** Statutory interpretation begins with the text.
9. **Sentences: Restitution.** The sentencing statutes governing restitution in criminal cases are to be given a strict construction which is sensible.
10. **Criminal Law: Statutes.** A penal statute will not be applied to situations or parties not fairly or clearly within its provisions.
11. **Statutes.** In the absence of anything indicating to the contrary, statutory language is to be given its plain and ordinary meaning.
12. ____. A court must give effect to all parts of a statute, and if it can be avoided, no word, clause, or sentence will be rejected as superfluous or meaningless.

13. **Statutes: Legislature: Intent.** Components of a series or collection of statutes pertaining to a certain subject matter are in pari materia and should be conjunctively considered and construed to determine the intent of the Legislature, so that different provisions are consistent, harmonious, and sensible.
14. **Statutes.** Courts are not permitted to read additional words into a clear and unambiguous statute.
15. ____. To the extent there is a conflict between two statutes, the specific statute controls over the general statute.
16. **Sentences: Restitution: Damages: Words and Phrases.** Sentencing courts are expressly authorized under Neb. Rev. Stat. §§ 29-2280 and 29-2282 (Reissue 2016) to order restitution for two categories of actual damage sustained by the victim as a direct result of an offense of which the defendant was convicted. One category is "physical injury" encompassing both "bodily injury" and "death." The other category is "property damage or loss" encompassing "damage, destruction, or loss of property."
17. **Sentences: Restitution: Damages.** When ordering restitution, sentencing courts are limited to only those categories of actual damages expressly authorized by Neb. Rev. Stat. §§ 29-2280 and 29-2282 (Reissue 2016).

Appeal from the District Court for Gage County, RICKY A. SCHREINER, Judge, on appeal thereto from the County Court for Gage County, JEFFREY A. GAERTIG, Judge. Judgment of District Court affirmed in part as modified, and in part reversed and remanded with directions.

Lee Timan, of Nelson, Clark & Timan, P.C., for appellant.

Michael T. Hilgers, Attorney General, and Melissa R. Vincent for appellee.

FUNKE, C.J., CASSEL, STACY, PAPIK, FREUDENBERG, BERGEVIN, and VAUGHN, JJ.

STACY, J.

Joshua Carpenter pled no contest to one misdemeanor count of obstructing a public road, in violation of Neb. Rev. Stat. § 39-301 (Reissue 2016). The county court imposed a

sentence that included payment of $15,000 in restitution to the county sheriff's office for expenses related to removing the obstruction.

On appeal to the district court, Carpenter challenged only the restitution order, arguing that Neb. Rev. Stat. § 29-2280 (Reissue 2016) did not authorize criminal restitution for such expenses. Alternatively, he argued the county court had not adequately considered his ability to pay before ordering criminal restitution.[1] The district court rejected the first argument but found the second argument had merit; it therefore vacated the order of restitution and remanded the matter for further proceedings.

Carpenter appealed again, assigning error to the district court's determination that § 29-2280 authorized the type of restitution ordered in this case. Because the parties' arguments on appeal present issues of statutory construction, we moved this appeal to our docket on our own motion. For reasons we will explain, we affirm the district court's decision to vacate the order of restitution, but we do so on different grounds.

I. BACKGROUND

On or about June 28, 2024, Carpenter was transporting a 70-foot mobile home on a rural county road in Gage County, Nebraska. An axle broke during transport, causing the mobile home to become "stationary in the middle of the . . . county road." Over the next several days, Carpenter attempted to remove the obstruction from the roadway but was not successful.

On or about July 3, 2024, an unidentified person from the Gage County sheriff's office informed Carpenter that if he did not remove the obstruction from the roadway, the county would do so and would charge Carpenter for the expense. The next day, the sheriff hired an excavation company to clear the obstruction. That company invoiced the sheriff's office

[1] See Neb. Rev. Stat. § 29-2281 (Cum. Supp. 2024).

$15,000 for its services. The parties agree that Carpenter's offense did not cause any damage to the roadway and that the $15,000 covered only removal and disposal of the obstruction.

1. Charges, Plea, and Sentencing

On September 27, 2024, Carpenter was charged in Gage County Court with one count of criminal mischief[2] and one count of obstructing a road.[3] Carpenter pled not guilty to both misdemeanor charges.

At a status hearing on March 6, 2025, the parties informed the court they had reached a plea agreement whereby Carpenter would plead no contest to the obstruction charge and the State would dismiss the criminal mischief charge with prejudice. The plea agreement did not address restitution, and the court was advised that Carpenter contended that Nebraska law did not permit an order of criminal restitution under the circumstances. After conducting a standard plea colloquy, the court accepted Carpenter's plea, found him guilty of obstructing a public road, and set the matter for a joint hearing on restitution and sentencing.

At the joint hearing on March 31, 2025, the matter of restitution was taken up first. The Gage County sheriff testified on behalf of the State, and a copy of the $15,000 invoice was offered and received into evidence without objection.

The sheriff was asked to describe the steps he took before hiring the excavation company to remove the obstruction, and he testified that he did not communicate directly with Carpenter about removing the obstruction, but that "[o]ne of the deputies probably" did. The sheriff "checked with the county highway superintendent to see if that's something he'd want his staff to do," and the superintendent "cleared it with the county board," but the "chairman . . . didn't want to do that." So, the sheriff called around and eventually hired an

---

[2] See Neb. Rev. Stat. § 28-519(5) (Reissue 2016).

[3] See § 39-301.

excavating company to remove the obstruction. When asked if he was "in a position to authorize" such an expenditure, the sheriff replied, "Yes."

According to the sheriff, the obstruction had been present on the public roadway for nearly a week and it was presenting safety concerns and interfering with public access. The sheriff testified that the company he hired used an excavator, a track loader, and five employees working for 8 hours to remove the obstruction. The company charged $15,000 for such services, and when the sheriff was asked if the invoice was "actually paid out of [the sheriff's] budget," he replied, "Yes."

The court gave Carpenter an opportunity to offer evidence on the issue of restitution, and he declined. In doing so, Carpenter explained that he did not dispute the amount of restitution being requested, but that he intended to argue that criminal restitution was not legally authorized in this case under § 29-2280.

Both parties presented argument on the issue of restitution. Without citing any specific statutory authority, the State argued that based on the evidence presented, the sheriff's office was entitled to restitution in the amount of $15,000. Alternatively, the State argued that if the court considered that amount to be unreasonable, then it was requesting either that "a civil judgment be imposed" or that the State "get access to" land Carpenter owned that was valued "at about $4,000."

In opposing restitution, Carpenter presented three general arguments. First, he argued restitution was not authorized under § 29-2280 because his offense did not cause any injury or damage to the roadway and thus did not result in "actual physical injury or property damage or loss" as required by § 29-2280. Second, he argued that the $15,000 invoice paid by the sheriff's office was not a "loss sustained by the victim as a direct result of the offense"[4] as required by the statute and instead was a "collateral issue." And finally, Carpenter argued

[4] § 29-2280.

that even if the court refused to order criminal restitution, the sheriff's office could still pursue civil remedies to recover the expense associated with removing the obstruction.[5]

In remarks from the bench, the county court confirmed that the State was seeking restitution under § 29-2280 and that there was no evidence that Carpenter's offense caused any damage to property or to the roadway. The State agreed with that observation, but it argued the $15,000 invoice was nevertheless recoverable as a "loss sustained by the victim" within the meaning of § 29-2280.

The court announced its restitution decision from the bench. It made an express finding that the cost of hiring the excavation company to remove the obstruction was a "loss sustained by the victim" under § 29-2280, and it determined the amount of the loss was $15,000. The court acknowledged that sentencing courts are required to consider a defendant's ability to pay before ordering restitution,[6] but it explained that it was not "in a position" to do so in this case because "[t]here was no evidence presented on [Carpenter's] financial ability to pay."

The court then proceeded directly to sentencing. After considering arguments and allocution, the court imposed a fine of $100. In addition, the court charged Carpenter $3 for each day the obstruction remained on the roadway,[7] ordered him to pay court costs, and ordered him to pay $15,000 in restitution to the "Gage County Sheriff's Office" no later than 5 years from the date of sentencing.

---

[5] See, e.g., § 39-301 (providing that "[a]ny officer in charge of road work" may remove road obstructions and recover necessary costs of such removal "in an action in county court").

[6] See § 29-2281.

[7] See § 39-301 (person convicted of obstructing road shall "be charged an additional sum of not exceeding three dollars per day for every day he or she allows such obstruction to remain after being ordered to remove the same").

2. APPEAL TO DISTRICT COURT

Carpenter appealed the county court's judgment to the district court. He assigned and argued that it was error to order restitution because (1) the $15,000 invoice was not a "loss sustained by the victim" within the meaning of § 29-2280 and (2) the court failed to consider Carpenter's ability to pay before ordering restitution, as required by § 29-2281.

The district court, sitting as an appellate court, issued an opinion that effectively affirmed the county court's ruling that the restitution was authorized by § 29-2280, reasoning:

> Evidence at the restitution hearing was that the Gage County Sheriff incurred expenses resulting from the removal of the obstruction in the road caused by [Carpenter, which expenses the sheriff] would not have otherwise incurred absent the criminal act of [Carpenter,] and [that] those expenses were the direct result of the offense for which he was convicted. As such, an award of restitution is allowable and appropriate under [§ 29-2280] and this Court finds no error in the determination that the expense incurred by the Gage County Sheriff to remove the obstruction from the road constitutes a loss sustained for which an award of restitution may be awarded under the statute.

But the district court found merit to Carpenter's second argument, noting that under § 29-2281(1), a sentencing court is required to consider "the defendant's earning ability, employment status, financial resources, and family or other legal obligations and shall balance such considerations against the obligation to the victim." And although the district court acknowledged that the parties failed to present any evidence addressing those factors during the restitution hearing, it concluded the county court erred by failing to consider the § 29-2281 factors once it determined restitution was authorized. It therefore vacated the order of restitution and remanded the matter with directions to conduct a new restitution hearing.

Carpenter filed a timely appeal, challenging only the district court's determination that restitution was authorized under § 29-2280. We moved the case to our docket on our own motion.

II. ASSIGNMENT OF ERROR

Carpenter assigns, restated, that the district court erred in holding that § 29-2280 authorized the sentencing court to order restitution to the sheriff's office for the costs incurred in removing the obstruction from the public road.

III. STANDARD OF REVIEW

[1] Statutory interpretation is a question of law that an appellate court resolves independently of the trial court.[8]

[2] Whether a sentence is authorized by statute presents a question of law, which an appellate court reviews de novo.[9]

IV. ANALYSIS

[3,4] In the context of criminal sentencing, restitution is purely statutory and a court has no power to issue such an order in the absence of enabling legislation.[10] Neb Rev. Stat. §§ 29-2280 through 29-2289 (Reissue 2016 & Cum. Supp. 2024) govern a sentencing court's authority to order restitution in a criminal case.[11] Section 29-2280 provides, in relevant part: "A sentencing court may order the defendant to make restitution for the actual physical injury or property damage or loss sustained by the victim as a direct result of the offense for which the defendant has been convicted."

The central question on appeal is whether the sentencing court was authorized, under § 29-2280, to order Carpenter to make restitution for costs incurred by the sheriff's office

---

[8] *State v. Mielak*, 321 Neb. 542, 35 N.W.3d 798 (2026); *State v. Leatherwood*, 320 Neb. 242, 26 N.W.3d 752 (2025).

[9] *State v. Brown*, 317 Neb. 273, 9 N.W.3d 871 (2024).

[10] See *State v. Street*, 306 Neb. 380, 945 N.W.2d 450 (2020).

[11] *Id.*

in removing the obstruction from the public road. Before we address this question, we briefly consider whether it has been rendered moot by the district court's order vacating the restitution order, which neither party has appealed.

1. APPEAL NOT MOOT

Carpenter seeks to have the restitution order vacated on the ground it is unauthorized, and although the district court has already vacated the restitution order, we do not think that has rendered Carpenter's appeal moot.

[5-7] Mootness is a justiciability doctrine that operates to prevent courts from exercising jurisdiction.[12] A moot case is one that seeks to determine a question that no longer rests upon existing facts or rights—i.e., a case in which the issues presented are no longer alive.[13] The central question in a mootness analysis is whether changes in circumstances have forestalled any occasion for meaningful relief.[14] As a general rule, a moot appeal is subject to summary dismissal.[15]

Although the restitution order in this case has already been vacated by the district court, its reasoning had nothing to do with whether restitution was authorized under § 29-2280. Instead, the district court vacated the restitution order to facilitate reconsideration, on remand, of the factors in § 29-2281. Because the district court expressly held that the restitution order was authorized by § 29-2280, and because Carpenter assigns error to that holding on appeal, we conclude the issue presented on appeal is still alive, and the unchallenged order vacating restitution has not forestalled any occasion for meaningful relief. We turn now to the arguments raised on appeal.

---

[12] *Burbank v. Evnen*, 321 Neb. 65, 32 N.W.3d 612 (2026).

[13] *Id.*

[14] *Id.*

[15] *Flinn v. Strode*, 320 Neb. 813, 30 N.W.3d 661 (2026).

2. Parties' Arguments

Both parties generally frame the issue on appeal as whether the restitution order—which directed Carpenter to pay $15,000 to the sheriff's office for the costs incurred in removing the obstruction from the public road—was authorized as a "loss sustained by the victim" under § 29-2280. The parties agree that the obstruction in this case did not result in physical injury to anyone and did not result in any damage to the public road that required repair, so there is no contention that the sheriff's office was seeking restitution for either "physical injury" or "property damage" under § 29-2280.

Carpenter argues that the money spent by the sheriff to remove the obstruction was not a "loss sustained by the victim" under § 29-2280. The State contends it was. But in presenting their arguments, both parties appear to assume that § 29-2280 broadly authorizes sentencing courts to order restitution for any "loss" that may be sustained by a victim as a direct result of the offense. We disagree with this proposed construction. To explain why, we begin with the settled principles of statutory construction that guide our analysis.

3. Statutory Interpretation Principles

[8-10] Statutory interpretation begins with the text.[16] Section 29-2280 is a sentencing statute, and thus a penal statute, and penal statutes are to be given a strict construction which is sensible.[17] A penal statute will not be applied to situations or parties not fairly or clearly within its provisions.[18]

[11-15] In the absence of anything indicating to the contrary, statutory language is to be given its plain and ordinary meaning.[19] A court must give effect to all parts of a statute, and if it

---

[16] *State v. Clausen*, 318 Neb. 375, 15 N.W.3d 858 (2025).

[17] See *Street, supra* note 10.

[18] *State v. Vanderford*, 312 Neb. 580, 980 N.W.2d 397 (2022).

[19] *Street, supra* note 10.

can be avoided, no word, clause, or sentence will be rejected as superfluous or meaningless.[20] Components of a series or collection of statutes pertaining to a certain subject matter are in pari materia and should be conjunctively considered and construed to determine the intent of the Legislature so that different provisions are consistent, harmonious, and sensible.[21] Courts are not permitted to read additional words into a clear and unambiguous statute.[22] To the extent there is a conflict between two statutes, the specific statute controls over the general statute.[23]

With these principles in mind, we consider, and ultimately reject, the parties' suggestion that § 29-2280 should be broadly construed to authorize restitution for any "loss" that is sustained by a victim as a direct result of the offense.

4. Construing § 29-2280

As we understand it, the parties read § 29-2280 to identify three distinct categories of damages that can support an award of restitution when sustained by the victim as a direct result of the offense: (1) "physical injury," (2) "property damage," and (3) "loss." But when § 29-2280 is construed in pari materia with the provisions of § 29-2282, the flaw in this reading becomes apparent.

Section 29-2282 addresses how to determine restitution, and it provides:

> In determining restitution, *if the offense results in damage, destruction, or loss of property*, the court may require: (1) Return of the property to the victim, if possible; (2) payment of the reasonable value of repairing the property, including property returned by the defendant;

---

[20] *State v. Albarenga*, 313 Neb. 72, 982 N.W.2d 799 (2022).

[21] *State v. Boppre*, 315 Neb. 203, 995 N.W.2d 28 (2023).

[22] See *Street, supra* note 10.

[23] *Id.*

> or (3) payment of the reasonable replacement value of the property, if return or repair is impossible, impractical, or inadequate. *If the offense results in bodily injury*, the court may require payment of necessary medical care, including, but not limited to, physical or psychological treatment and therapy, and payment for income lost due to such bodily injury. *If the offense results in the death of the victim*, the court may require payment to be made to the estate of the victim for the cost of any medical care prior to death and for funeral and burial expenses.

(Emphasis supplied.)

If the parties were correct that "loss" is a distinct category of damages under § 29-2280, then § 29-2282 would address how to determine restitution when the offense results in "loss" to a victim that is unrelated to either physical injury or property damage. But it does not. Instead, both § 29-2280 and § 29-2282 use the term "loss" exclusively as a modifier when referencing property damage. And read together, the provisions of §§ 29-2280 and 29-2282 illustrate that the phrase "property damage or loss" used in § 29-2280 is intended to encompass the more specific concepts of "damage, destruction, or loss of property" in § 29-2282.[24]

[16] Giving the text of § 29-2280 its plain and ordinary meaning and reading it in pari materia with § 29-2282, we hold that sentencing courts are expressly authorized under §§ 29-2280 and 29-2282 to order restitution for two categories of actual damage sustained by the victim as a direct result of an offense of which the defendant was convicted. One category is "physical injury"[25] encompassing both "bodily injury"[26] and

---

[24] *Id*. at 392, 945 N.W.2d at 460 (describing "specifically listed options in § 29-2282" as more specific statute when compared to "property damage or loss" referenced in § 29-2280).

[25] § 29-2280.

[26] § 29-2282.

"death."[27] The other category is "property damage or loss"[28] encompassing "damage, destruction, or loss of property."[29]

[17] Because restitution statutes must be given a strict construction,[30] we reject the parties' suggestion that § 29-2280 can be broadly construed to authorize restitution for any type of loss sustained by a victim. Instead, when ordering restitution, sentencing courts are limited to only those categories of actual damages expressly authorized by §§ 29-2280 and 29-2282.

We see nothing particularly new about this construction of the criminal restitution statutes. Very recently, in *State v. Street*,[31] we described the "listed options in § 29-2282" as the more specific statute when compared to the "property damage or loss" language in § 29-2280. And more than 30 years ago, in *State v. Brohimer*,[32] we applied similar reasoning and vacated restitution that did not fall within the scope of § 29-2280.

In *Brohimer*, the defendant was convicted of first degree murder and his sentence included an order requiring him to pay nearly $8,000 in restitution that included several items challenged on appeal: $1,829.62 for the prosecution's attorney fees, a $100 charitable contribution to a firefighting organization because the victim was a firefighter, and $272 in garage rental expenses. We applied the plain language of § 29-2280 and determined there was nothing in the record to support a finding that these three items of restitution were compensating the victim or her estate for "'actual physical injury or property damage or loss'"[33] sustained as a direct result of the offense. We therefore vacated those items of restitution as outside that which was expressly authorized by § 29-2280.

---

[27] *Id*.

[28] § 29-2280.

[29] § 29-2282.

[30] See *Street, supra* note 10.

[31] *Id*. at 392, 945 N.W.2d at 460.

[32] *State v. Brohimer*, 238 Neb. 45, 468 N.W.2d 623 (1991).

[33] *Id.* at 47, 468 N.W.2d at 624 (quoting prior version of § 29-2280).

The same result is required here. As part of his sentence for obstructing a public road, Carpenter was ordered to pay the sheriff's office $15,000 in restitution. The record shows that the sheriff's office paid that amount to have the obstruction removed from the public road, but § 29-2280 does not expressly authorize restitution for that type of expenditure, even if we assume for the sake of argument that the sheriff's office can be considered a victim of Carpenter's offense. Because there is no evidence in the record showing that the sheriff's office sustained either "physical injury" or "property damage or loss" within the meaning of § 29-2280 as a direct result of the offense of which Carpenter was convicted, the district court erred in affirming the county court's award of restitution.

5. State's Alternative Arguments

Perhaps expecting this result, the State makes two alternative arguments that we address for the sake of completeness. First, the State contends that "money is a form of property,"[34] and it therefore argues that the sheriff's payment of the $15,000 invoice was a "loss of property" that will support restitution under § 29-2282. Alternatively, the State argues that even if the record does not support restitution under §§ 29-2280 and 29-2282, we should nevertheless affirm the restitution order because it was authorized under § 39-301. We address each argument in turn, and on this record, we reject them both.

(a) Payment Was Not "[L]oss of [P]roperty" Under § 29-2282

Section § 29-2282 provides that when determining restitution for an offense that results in "damage, destruction, or loss of property," the sentencing court has three options:

> [T]he court may require: (1) Return of the property to the victim, if possible; (2) payment of the reasonable value of repairing the property, including property returned by the

[34] Brief for appellee at 7.

> defendant; or (3) payment of the reasonable replacement value of the property, if return or repair is impossible, impractical, or inadequate.

Even accepting the State's general premise that money is a form of property, we are not persuaded by its argument that the sheriff's office sustained a "loss of property" within the meaning of § 29-2282 when it paid the $15,000 invoice. Carpenter's offense was obstructing a public road; he was not convicted of any sort of financial crime. And while § 29-2282 would likely authorize restitution based on evidence that the sheriff's office paid to repair or replace property that was physically damaged, destroyed, or incapable of being returned as a result of Carpenter's offense, those facts are simply not present here.

We therefore reject the State's suggestion that any expenditure of money by law enforcement in response to a criminal offense can be considered a "loss of property" sufficient to support restitution under § 29-2282. Indeed, if that phrase had the broad meaning urged by the State, it would have been unnecessary for the Legislature to enact Neb. Rev. Stat. § 28-427 (Reissue 2016), which expressly authorizes law enforcement to recover, as restitution, "reasonable expenditures made in the purchase of any controlled substances" as part of the investigation leading to a conviction of an offense violating the Uniform Controlled Substances Act.

(b) Criminal Restitution Not Authorized Under § 39-301

Finally, the State argues that even if the record does not support an award of criminal restitution under §§ 29-2280 and 29-2282, the restitution order can nevertheless be affirmed under the provisions of § 39-301. Section 39-301, in addition to proscribing the offense of which Carpenter was convicted, provides in relevant part:

> Any officer in charge of road work, after having given reasonable notice to the owners of the obstruction or person so obstructing . . . such road, may remove any . . .

> obstruction . . . and recover the necessary cost of such removal from such owner or other person obstructing such road, to be collected by such officer in an action in county court.

The parties dispute whether § 39-301 is a statute that expressly authorizes criminal restitution. We understand Carpenter to argue that the relief authorized by § 39-301 should be construed as inherently civil in nature because the statute does not expressly authorize criminal restitution as the Legislature has done elsewhere.[35] The State contends, however, that the general reference in § 39-301 to "an action in county court" is broad enough to encompass both criminal and civil actions, and it argues that § 39-301 should be construed to provide statutory authority for an order of restitution as part of a criminal sentence.

Neither party mentions Neb. Rev. Stat. § 25-2225 (Reissue 2016), which provides, in relevant part, that "where the statute gives an action, but does not designate the kind of action, or prescribe the mode of proceeding therein, such action shall be held to be the civil action of this code and proceeded in accordingly." We find this statute instructive when determining whether the "action" referenced in § 39-301 is civil or criminal in nature.

---

[35] Compare, e.g., § 28-427 (person convicted of violating Uniform Controlled Substances Act may be ordered to make "restitution to any law enforcement agency for reasonable expenditures made in the purchase of any controlled substances from such person or his or her agent as part of the investigation leading to such conviction"); Neb. Rev. Stat. § 28-638(2)(g) (Reissue 2016) (person found guilty of criminal impersonation may, in addition to other penalties, "be ordered to make restitution pursuant to sections 29-2280 to 29-2289"); Neb. Rev. Stat. §§ 28-639(3)(e) (Reissue 2016) (persons found guilty of identity theft may, in addition to other penalties, "be ordered to make restitution pursuant to sections 29-2280 to 29-2289"); Neb. Rev. Stat. § 28-640(2)(b) (Reissue 2016) (same regarding identity fraud); Neb. Rev. Stat. § 28-645(3) (Cum. Supp. 2024) (persons found guilty of criminal impersonation by stolen valor may, in addition to other penalties, "be ordered to make restitution pursuant to sections 29-2280 to 29-2289").

Section 39-301 confers upon "[a]ny officer in charge of road work" the right to recover the necessary cost of removing an obstruction, but the statute does not designate the kind of action or prescribe the mode of proceeding other than to state that such costs must be "collected by such officer in an action in county court." Guided by § 25-2225, we hold that to the extent § 39-301 authorizes an officer in charge of road work to bring an "action in county court" to recover the necessary costs of removing a road obstruction, such action must be held to be a civil action. We therefore reject the State's invitation to construe § 39-301 to expressly authorize an order of criminal restitution.

V. CONCLUSION

For the foregoing reasons, we conclude the criminal restitution ordered by the county court fell outside the scope of § 29-2280 and was not legally authorized. We therefore affirm as modified the district court's judgment on appeal vacating the restitution order, but we do so on different grounds. Because of this disposition, there is no need for a hearing on remand to consider the factors in § 29-2281, and we reverse that portion of the district court's judgment.

As a result, we remand this matter to the district court with directions to vacate the order of restitution in its entirety and to otherwise affirm the judgment of the county court.

AFFIRMED IN PART AS MODIFIED, AND IN PART REVERSED AND REMANDED WITH DIRECTIONS.