

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

MELISSA WILLIAMS,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED

CASE NO. 1D07-5192

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Opinion filed August 12, 2009.

An appeal from the Circuit Court for Columbia County.  
Paul S. Bryan, Judge.

Nancy A. Daniels, Public Defender, and Alice B. Copek, Assistant Public  
Defender, Tallahassee, for Appellant.

Bill McCollum, Attorney General, and Giselle Denise Lyles, Assistant Attorney  
General, Tallahassee, for Appellee.

PER CURIAM.

In this criminal appeal, we affirm the conviction. Appellant, however, correctly asserts that the trial court lacked jurisdiction to enter a restitution order after appellant filed a notice of appeal as to the judgment and sentence. See Horan v. State, 990 So. 2d 1264, 1265 (Fla. 1st DCA 2008); Williams v. State, 952 So. 2d 616 (Fla. 1st DCA 2007); Brantley v. State, 723 So. 2d 909 (Fla. 1st DCA 1999)

(noting the State conceded that filing the notice of appeal divested the trial court of jurisdiction to set the amount of restitution); Nguyen v. State, 655 So. 2d 1249 (Fla. 2d DCA 1995). Pursuant to Brantley, Williams, Horan, and Nguyen, upon the return of jurisdiction to the trial court, that court may conduct another restitution hearing and rule in accordance with the evidence presented.

AFFIRMED in part, REVERSED in part, and REMANDED.

KAHN, BENTON, and VAN NORTWICK, JJ., CONCUR.