

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

THOMAS EUGENE EPLEY,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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

CASE NO. 1D08-5296

Opinion filed July 6, 2009.

An appeal from the Circuit Court for Bay County.
Richard Albritton, Judge.

Nancy A. Daniels, Public Defender, and G. Kay Witt, Assistant Public Defender,
Tallahassee, for Appellant.

Bill McCollum, Attorney General, and Donna A. Gerace, Assistant Attorney
General, Tallahassee, for Appellee.

PER CURIAM.

The appellant challenges an order of restitution awarding \$3,597.91, representing the replacement value of the goods stolen. Fair market value, however, rather than replacement value, is the correct measure of restitution. See Walters v. State, 888 So. 2d 150 (Fla. 5th DCA 2004). In the absence of any record evidence establishing that the fair market value of the stolen items would

not adequately compensate the victim for his loss, we must reverse. The evidence presented by the State established the fair market value at \$1,850. We accordingly REVERSE and REMAND for the trial court to enter a restitution order in the amount of \$1,850.

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