

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHARLES RAY WALKER,

Defendant-Appellant.

UNPUBLISHED

March 25, 1997

No. 191173

Ionia Circuit Court

LC No. 95-010294-FH

Before: D.F. Walsh,* P.J., and R.P. Griffin** and W.P. Cynar,* JJ.

MEMORANDUM.

Defendant pleaded nolo contendere to extortion, MCL 750.213; MSA 28.410, and larceny by conversion, MCL 750.362; MSA 28.594. The plea was made in exchange for an agreement which provided, in part, that restitution would be determined and imposed. Defendant was sentenced to concurrent terms of 2-1/2 to 20 years' imprisonment for the extortion conviction and 2-1/2 to 5 years' imprisonment for the larceny conviction. He appeals as of right. We remand. This case has been decided without oral argument pursuant to MCR 7.214(A).

Defendant argues that the trial court failed to consider various factors in imposing restitution and failed to hold a hearing after he disputed the amount of restitution and his ability to pay. Pursuant to MCL 780.767(1); MSA 28.1287(767)(1), the court was required to consider such factors as the amount of loss sustained by the victim, defendant's financial resources and earning ability and the financial needs of defendant and his family. Since there is no indication that the court considered such factors, the order of restitution is vacated and the case is remanded for reconsideration of the matter of restitution. *People v Grant*, 210 Mich App 467, 473; 534 NW2d 149 (1995). On remand, the court should hold a hearing if it determines, upon considering the proper factors for imposing restitution, that

*Former Court of Appeals judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

**Former Supreme Court justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

such is needed because of a lack of evidence or because of a challenge to the evidence and request for a hearing by defendant. *Id.*, 473 n 3.

Remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Daniel F. Walsh

/s/ Robert P. Griffin

/s/ Walter P. Cynar