

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

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

RYAN FULTON YOUNG,

Appellant,

v.

Case No. 5D19-1879

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed February 7, 2020

Appeal from the Circuit Court
for Citrus County,
Richard A. Howard, Judge.

James S. Purdy, Public Defender, and
Teresa D. Sutton, Assistant Public
Defender, Daytona Beach, for Appellant.

Ashley Moody, Attorney General,
Tallahassee, and Deborah A. Chance,
Assistant Attorney General, Daytona
Beach, for Appellee.

COHEN, J.

Ryan Young appeals the restitution order entered following his plea to burglary of a dwelling and grand theft of firearms. Young raises three arguments on appeal, only one of which merits discussion: that the trial court erred at the restitution hearing by allowing evidence of allegedly stolen items that were not evinced in discovery.

The trial court ordered Young to pay restitution for the victim's nearly twenty-year-old cargo trailer, which was used as a tool shed. However, Young was not charged with the theft of the trailer, and the trailer was neither listed in the police reports nor noted in any other discovery. The record indicates that the first time the trailer was mentioned was at the restitution hearing, when the victim testified to its value, utilizing its original purchase price. We find that the trial court abused its discretion in ordering restitution for that item. See J.D. v. State, 212 So. 3d 1144, 1146 (Fla. 5th DCA 2017) (holding that trial court abused discretion in ordering defendant to pay restitution for items not listed in plea agreement, delinquency petition, arrest reports, or any other discovery). Young raises similar arguments about other items that were neither charged nor listed in discovery, yet the subject of the trial court's restitution order.¹ Accordingly, we reverse the restitution order. On remand, the trial court shall hold a new restitution hearing and order restitution only for the items that were listed in the charging documents, police reports, or any other discovery, and for which there is some reasonable basis to determine the item's value.² See id.

REVERSED and REMANDED.

WALLIS and EDWARDS, JJ., concur.

¹ Our task of determining which items were properly included is made more difficult by the fact that the victim infrequently visited the location of the crime and discovered additional missing items over time.

² Since the case is being remanded for a new restitution hearing, we note that other values utilized by the trial court were completely without a proper evidentiary foundation.