

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

JANUARY TERM 2013

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

JAMES EDWARD MATTHEWS,

Appellant,

v.

Case No. 5D12-2233

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed June 14, 2013

Appeal from the Circuit Court
for Orange County,
Janet C. Thorpe, Judge.

James S. Purdy, Public Defender, and
John M. Selden, Assistant Public
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Allison Leigh Morris,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

James Matthews appeals an award of restitution in the amount of \$10,378.61, entered following an evidentiary hearing held after he pled no contest to petit theft for stealing various items from the victim's car. We affirm as to the amounts ordered for towing, rental car expenses, the GPS device, the tennis racquets, and the watches. We reverse as to the remaining items, finding the State failed to present competent evidence as to the fair market value of those items. The depreciation amounts assigned

by the judge were effectively pulled out of thin air because the State made no effort to properly value the items. See J.D.H. v. State, 931 So. 2d 241, 242 (Fla. 5th DCA 2006) (“A determination of the fair market value takes into consideration the original market cost, the manner in which the item was used, the general condition and quality of the item, and the percentage of depreciation.”). We remand to allow for additional evidence of the fair market value of those remaining items.

AFFIRMED IN PART; REVERSED IN PART; and REMANDED.

SAWAYA, COHEN and BERGER, JJ., concur.