

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

NICOLE WHITTAKER,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D18-2336

[November 20, 2019]

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Barbara A. McCarthy, Judge; L.T. Case No. 15004901CF10A.

Carey Haughwout, Public Defender, and Timothy Wang, Assistant Public Defender, West Palm Beach, for appellant.

Ashley Moody, Attorney General, Tallahassee, and Georgina Jimenez-Orosa, Senior Assistant Attorney General, West Palm Beach, for appellee.

GERBER, J.

The defendant appeals from her convictions and sentences for criminal use of personal identification, and financial exploitation of an elderly person. The convictions arose out of evidence that the defendant, while serving as a home health aide to a couple in their late eighties, forged the wife's signature on several checks totaling \$57,148.25, which defendant cashed at local banks. The trial court sentenced the defendant to serve time in prison to be followed by probation. As a condition of probation, the trial court summarily ordered the defendant to pay \$57,148.25 in restitution. However, the trial court did not first provide the defendant with notice and an opportunity to be heard at a restitution hearing.

On appeal of the restitution order, the defendant argues that the trial court erred in entering the order without having provided notice and an opportunity to be heard at a restitution hearing. The state properly concedes error. *See Sainvil v. State*, 248 So. 3d 148, 149 (Fla. 4th DCA 2018) ("The imposition of restitution without notice or a hearing is error.") (citation omitted). Accordingly, we reverse the restitution order, and

remand for the trial court to provide the defendant with notice and an opportunity to be heard at a restitution hearing.

On appeal of the underlying convictions, the defendant raises several arguments, none of which have merit. Therefore, we affirm the convictions without further discussion.

Affirmed in part, reversed in part, and remanded with instructions.

CIKLIN and FORST, JJ., concur.

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Not final until disposition of timely filed motion for rehearing.