

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

LEROY HARRIS,)	
)	
Appellant,)	
)	
v.)	Case No. 2D03-5770
)	
STATE OF FLORIDA,)	
)	
Appellee.)	
_____)	

Opinion filed September 28, 2005.

Appeal from the Circuit Court for
Hillsborough County;
Rex Martin Barbas, Judge.

James Marion Moorman, Public
Defender, and Judith Ellis, Assistant
Public Defender, Bartow, for Appellant.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Ronald Napolitano,
Assistant Attorney General, Tampa,
for Appellee.

STRINGER, Judge.

Leroy Harris seeks review of his judgment and sentence for grand theft.

We affirm Harris' conviction and prison sentence without comment. Because the trial court erred in refusing to grant a restitution hearing, we reverse the restitution order and remand for a restitution hearing.

After the jury returned its guilty verdict and the court imposed a prison sentence, the State asked the court to impose a lien for restitution. The defense asked for a restitution hearing because there was no amount proven, but the court declined the request. The court noted that the charge was grand theft of \$300 to \$5000 and said that the best the court could do was impose the maximum amount charged. In accordance with its ruling, the court entered a restitution order imposing \$5000 as a lien.

Harris correctly argues, and the State concedes, that the trial court erred in refusing to grant a restitution hearing. Section 775.089(7), Florida Statutes (2001), requires the State to prove the victim's loss by a preponderance of the evidence to support the entry of a restitution order. While the State presented sufficient evidence at trial to prove that Harris committed grand theft of items valued between \$300 and \$5000 as charged, the State did not present sufficient evidence to establish the victim's loss in terms of a dollar amount. Accordingly, we reverse and remand for a restitution hearing.

Affirmed in part; reversed in part; and remanded.

KELLY and WALLACE, JJ., Concur.