

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

KENNETH ARMSTRONG,
Appellant,

v.

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

CASE NO. 1D09-4068

STATE OF FLORIDA,

Appellee.

/

Opinion filed March 17, 2010.

An appeal from the Circuit Court for Columbia County.
Julian E. Collins, Judge.

Nancy A. Daniels, Public Defender, and Glenna Joyce Reeves, Assistant Public Defender, Tallahassee, for Appellant.

Bill McCollum, Attorney General, and Ian M. Cotner, Assistant Attorney General, Tallahassee, for Appellee.

WEBSTER, J.

In this direct criminal appeal, appellant filed a notice of appeal on August 12, 2009, seeking review of his judgment and sentence. On September 4, 2009, pursuant to a stipulation by the parties, the trial court entered a “Restitution Order.”

No notice of appeal was filed seeking review of that order. Appellant now raises only one issue. He asserts that “the trial court erred in imposing restitution since jurisdiction had been divested by filing the notice of appeal.”

We are, of course, obliged to determine whether we have subject matter jurisdiction over an appeal even if the parties fail to raise the issue. E.g., Polk County v. Sofka, 702 So. 2d 1243, 1245 (Fla. 1997). Here, because appellant failed to file a notice of appeal seeking review of the restitution order, we lack jurisdiction to consider the argument he now makes. Studnicka v. State, 679 So. 2d 819, 822 (Fla. 3d DCA 1996). Accordingly, we are constrained to dismiss this appeal.

DISMISSED.

PADOVANO and ROBERTS, JJ., CONCUR.