

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

JANUARY TERM 2009

TOSHIBA LOVE,

Appellant,

v.

Case No. 5D07-1864

STATE OF FLORIDA,

Appellee.

Opinion filed February 6, 2009

Appeal from the Circuit Court
for Brevard County,
Meryl L. Allawas, Judge.

James S. Purdy, Public Defender, and
Anne Moorman Reeves, Assistant
Public Defender, Daytona Beach, for
Appellant.

Bill McCollum, Attorney General,
Tallahassee, and Carlos A. Ivanor, Jr.,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Because there is nothing in the record showing that the defendant, Toshiba Love, voluntarily absented herself from the restitution hearing or that she knowingly and voluntarily waived her presence, we reverse the order awarding restitution and remand

for a new hearing. See Miller v. State, 833 So. 2d 318 (Fla. 2d DCA 2003). Our remand for a new hearing renders moot the other issue raised.

REVERSED and REMANDED.

SAWAYA, MONACO and COHEN, JJ., concur.