

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

JULY TERM 2010

J.A., A CHILD,

Appellant,

v.

Case No. 5D09-4218

STATE OF FLORIDA,

Appellee.

/

Opinion filed November 5, 2010

Appeal from the Circuit Court  
for Orange County,  
Anthony H. Johnson, Judge.

James S. Purdy, Public Defender, and  
Peter A. Ames, Sr., Assistant Public  
Defender, Daytona Beach, for Appellant.

Bill McCollum, Attorney General,  
Tallahassee, and Douglas T. Squire,  
Assistant Attorney General, Daytona  
Beach, for Appellee.

PER CURIAM.

Appellant challenges the restitution order entered after hearing during which he  
was not present. We reverse.

"A juvenile has a constitutional right to be present at hearings to determine the  
imposition and amount of restitution absent a voluntary and intelligent waiver of that  
right." *I.M. v. State*, 955 So. 2d 1163, 1164 (Fla. 1st DCA 2007). The State bears the

burden of proving that Appellant knowingly and voluntarily waived his right to be present. *Thar v. State*, 8 So. 3d 1204, 1205 (Fla. 2d DCA 2009). Here, indisputably, Appellant did not receive notice of the hearing, nor did he waive his right to be heard.

Appellant also challenges the award of restitution for the value of personal property removed from the stolen vehicle. The record before us fails to establish that Appellant's crime was the cause of this loss. See *L.R.L. v. State*, 9 So. 3d 714, 715 (Fla. 2d DCA 2009) (quoting § 985.437(2), Fla. Stat. (2007)).

Accordingly, we reverse the restitution order and remand this cause for further proceedings.

REVERSED AND REMANDED.

MONACO, C.J., TORPY and JACOBUS, JJ., concur.