**CAPTION: STATE V. PALMER**

**04-17-24**

APPEAL NO.: C-230412

TRIAL NO.: 23TRC-1318A

KEY WORDS: RESTITUTION – EVIDENTIARY HEARING – DUE PROCESS – ECONOMIC LOSS - EVIDENCE

SUMMARY:

The trial court abused its discretion when ordering restitution where the victim did not appear at the restitution hearing, the state submitted unauthenticated exhibits in support of an award of restitution, and defendant raised significant questions as to the authenticity and relevance of the state’s restitution evidence: defendant was denied her due-process right to a meaningful opportunity to be heard because she was unable to cross-examine the victim about the unauthenticated exhibits submitted by the state.

The trial court abused its discretion in ordering restitution where there was insufficient evidence in the record to show that the economic loss sustained by the complaining witness was a direct and proximate result of the defendant’s conduct. [*But see* DISSENT: Because this case was disposed on its merits, the due-process issue was moot, and the analysis regarding the right to compel a victim's testimony is dicta.]

JUDGMENT: REVERSED AND CAUSE REMANDED

JUDGES: OPINION by KINSLEY, J.; CROUSE, J., CONCURS and ZAYAS, P.J.,

CONCURS IN PART AND DISSENTS IN PART.