

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-240340
	:	TRIAL NO. B-2400192
Plaintiff-Appellee,	:	
vs.	:	
	:	<i>JUDGMENT ENTRY</i>
DONALD STEPHENS,	:	
Defendant-Appellant.	:	

We sua sponte remove this cause from the regular calendar and place it on the court's accelerated calendar, Loc.R. 11.1(C)(1), and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

On January 18, 2024, defendant-appellant Donald Stephens was indicted for robbery in connection with allegations that he took an elderly woman's vehicle and ATM card. He pled guilty to a reduced charge of robbery in violation of R.C. 2911.02(A)(3), a felony of the third degree. At sentencing, Stephens accepted responsibility for taking the prosecuting witness's vehicle. Nonetheless, he questioned the restitution amount sought, which was in excess of \$4,000. The prosecutor acknowledged that the restitution amount had not been in his materials, nor was the prosecuting witness in attendance at the sentencing hearing. Despite Stephens's protest, the trial court ordered him to pay the full \$4,595.85 in restitution to the prosecuting witness.

Stephens's sole assignment of error challenges this restitution award. Stephens argues that because he questioned the restitution amount, the trial court was required

OHIO FIRST DISTRICT COURT OF APPEALS

to conduct an evidentiary hearing.

The state concedes that the trial court erred in failing to hold an evidentiary hearing after Stephens questioned the \$4,000-plus restitution amount at the sentencing hearing.

Accordingly, we sustain Stephens's sole assignment of error. The restitution award is reversed, and the matter is remanded for an evidentiary hearing on restitution. *See State v. Miles*, 2021-Ohio-4581, ¶ 8 (1st Dist.) (If the defendant disputes the amount of restitution, the court must hold an evidentiary hearing.).

The court further orders that 1) a copy of this Judgment constitutes the mandate, 2) the mandate be sent to the trial court for execution under App.R. 27, and 3) costs shall be taxed under App.R. 24.

ZAYAS, P.J., BERGERON and WINKLER, JJ.

To the clerk:

Enter upon the journal of the court on 12/13/2024 per order of the court.

By: _____
Administrative Judge