

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

APPELLATE DIVISION (CRIMINAL): AC
CASE NO: 502013AP900031AXXMB
L.T. NO: 502012CT028977AXXMB

KIMBERLY PHILLIS ROST,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

Opinion filed: JUL 07 2014

Appeal from the County Court in and for Palm Beach County,
Judge Marni Bryson.

✓ For Appellant: Tom W. Odom, Esq.
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PER CURIAM.

At a plea hearing on February 25, 2013, Kimberly Rost ("Rost") pled guilty as charged to driving under the influence with special conditions including restitution payments. At the plea hearing, the trial court informed Rost that during the period of probation, there might be a hearing to determine whether or not Rost would be required to pay restitution and the amount. Rost also waived causation and hearsay as part of the agreement.

A restitution hearing was held on April 29, 2013, but Rost was not present. Defense counsel represented to the trial court that his office had sent a letter to Rost, notifying her of the hearing, at the same address the office had previously used. When counsel had sent a letter to that address regarding the case disposition hearing, Rost had attended that hearing. Defense counsel did not allege that Rost failed to receive notice and counsel failed to present evidence that her absence at the restitution hearing was involuntary. Rather, the evidence on the record shows that Rost was provided notice and failed to appear. *See Wallen v. State*, 932 So. 2d 493 (Fla. 4th DCA 2006). The trial court properly made an inquiry as to whether Rost voluntarily waived her right to be present at the hearing and then made a finding of voluntary waiver. *See Knespler v. State*, 72 So. 3d 299 (Fla. 4th DCA 2011); *Papageorge v. State*, 710 So. 2d 53, 55 (Fla. 4th DCA 1998). Accordingly, the restitution orders are AFFIRMED.

ROSENBERG, RAPP, and MCSORLEY, JJ. concur.

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DISPOSITIVE ()	DISPOSITIVE ()	DISPOSITIVE ()
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