

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SHELLI LINN IDE,

Defendant-Appellant.

UNPUBLISHED

February 25, 1997

No. 191216

Kent Circuit Court

LC No. 94-001073-FH

Before: Sawyer, P.J., and Neff and A.L. Garbrecht,* JJ.

MEMORANDUM.

Defendant pled nolo contendere to embezzlement over \$100, MCL 750.174; MSA 28.371, and to being a second felony offender, MCL 769.10; MSA 28.1082. She was sentenced to 3-1/2 to 15 years in prison and ordered to pay \$17,476.43 in restitution. She now appeals and we affirm.

Defendant's only argument on appeal is that the trial court erred in imposing restitution. She argues that the trial court failed to comply with the requirements of MCL 780.767(1); MSA 28.1287(767)(1) by not determining defendant's ability to pay. We disagree. First, the trial court did determine that, because defendant was employable and that she would only have to pay approximately \$100 per month to make full payment by the end of her parole period, she had the ability to pay. Furthermore, the payment of restitution was part of the plea agreement. Accordingly, there is a rebuttable presumption that defendant considered her financial situation and determined that she will have the ability to pay the restitution. *People v Hart*, 211 Mich App 703, 708; 536 NW2d 605 (1995). Defendant has not rebutted that presumption. Accordingly, she must abide by the agreement she entered into. *Id.* at 710.

Affirmed.

/s/ David H. Sawyer

/s/ Janet T. Neff

/s/ Allen L. Garbrecht

* Circuit judge, sitting on the Court of Appeals by assignment.

