

IN THE SUPREME COURT, STATE OF WYOMING

2015 WY 155

October Term, A.D. 2015

December 9, 2015

DEBORA McEWAN,

**Appellant
(Defendant),**

v.

THE STATE OF WYOMING,

**Appellee
(Plaintiff).**

S-15-0168

ORDER REMANDING FOR SENTENCING HEARING

[¶1] **This matter** came before the Court upon a “Stipulated Motion to Remand,” e-filed herein November 30, 2015. In this appeal, Appellant challenges the district court’s “Judgment and Sentence Upon Plea of No Contest.” This Court finds that the order should be reversed, in part, and that this matter should be remanded to district court for a sentencing hearing.

[¶2] Pursuant to a plea agreement, Appellant pled guilty to one count of felony obtaining public welfare benefits by misrepresentation. Without holding a sentencing hearing, the district court imposed sentence. In her brief, Appellant claims the district court erred in imposing sentence without a hearing and erred in imposing restitution. The parties agree that Appellant should not have been sentenced without a hearing. *See Abeyta v. State*, 2003 WY 136, ¶¶ 23-25, 78 P.3d 664, 670-71 (Wyo. 2003). This Court agrees as well. It is, therefore,

[¶3] **ORDERED** that the sentencing and restitution provisions of the district court’s April 28, 2015, “Judgment and Sentence Upon Plea of No Contest” be, and hereby are, vacated; and it is further

[¶4] **ORDERED** that this matter is remanded to the district court for a sentencing hearing; and it is further

[¶5] **ORDERED** that this Court retains no jurisdiction over this matter.

[¶6] **DATED** this 9th day of December, 2015.

BY THE COURT:

/s/

E. JAMES BURKE
Chief Justice