

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

DAVID MICHAEL PRICKETT,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D04-1628

Opinion filed March 10, 2005.

An appeal from the Circuit Court for Santa Rosa County.
Ronald V. Swanson, Judge.

Nancy A. Daniels, Public Defender; P. Douglas Brinkmeyer, Assistant Public
Defender, Tallahassee, for Appellant.

Charles Crist, Attorney General; Giselle Lylen Rivera, Assistant Attorney General,
Tallahassee, for Appellee.

PER CURIAM.

David Michael Prickett appeals the order revoking his probation and consequent
ten-year sentence. We reverse.

Proof that he spoke to a young woman under the age of eighteen while she was
working as a cashier in a grocery store did not establish a willful, substantial violation

of the probation condition that he “have no unsupervised contact with minors.” See Smith v. State, 711 So. 2d 100, 102 (Fla. 1st DCA 1998) (holding that the State must establish by the greater weight of the evidence that a defendant violated a term of his probation). For one thing, the State failed to prove that the cashier was not working under the supervision of the store manager. See Van Wagner v. State, 677 So. 2d 314, 317 (Fla. 1st DCA 1996) (holding that, while a trial court has broad discretion to determine whether a term of probation has been violated, findings of fact must rest on competent, substantial evidence).

Reversed and remanded with instructions that appellant be reinstated to probation.

BENTON and VAN NORTWICK, JJ., CONCUR; WOLF, C.J., CONCURS IN RESULT WITHOUT OPINION.