

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

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

D.L.S., a child,  
  
Appellant,

v.

CASE NO. 1D05-0533

STATE OF FLORIDA,

Appellee.

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Opinion filed October 18, 2005.

An appeal from the Circuit Court for Escambia County.  
Judge John T. Parnham.

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

Charlie Crist, Attorney General and Daniel A. David, Assistant Attorney General,  
Office of the Attorney General, Tallahassee, for Appellee.

PER CURIAM.

We reverse the revocation of probation and commitment order for the offense  
of criminal mischief. The trial court lacked jurisdiction to impose any additional  
penalty for the crime of criminal mischief because the Appellant had served the

maximum sentence for that offense before the affidavit of revocation of probation was filed. See B.C.M. v. State, 838 So. 2d 664 (Fla. 1st DCA 2003); T.M.B. v. State, 689 So. 2d 1215 (Fla. 1st DCA 1997), approved, 716 So. 2d 269 (Fla. 1998). The separate commitment order for the crime of grand theft of a firearm is not challenged on appeal.

For these reasons we reverse with instructions to vacate the commitment order for the crime of criminal mischief and affirm the commitment order for the crime of grand theft of a firearm.

BENTON, PADOVANO and BROWNING, JJ., CONCUR.