

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

O.L.T. a child,

Appellant,

v.

CASE NO. 1D05-2195

STATE OF FLORIDA,

Appellee.

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Opinion filed October 18, 2005.

An appeal from the Circuit Court for Escambia County.  
Edward P. Nickinson, III, Judge.

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

Charlie Crist, Attorney General; and Daniel A. David, Assistant Attorney General,  
Tallahassee, for Appellee.

BROWNING, J.

Appellant challenges his sentences for battery and criminal mischief on  
revocation of probation, alleging that the trial court lacked jurisdiction to impose those  
sentences. We agree, because Appellant had finished serving those sentences before

the most recent affidavit of violation of probation was filed. See Aponte v. State, 896 So. 2d 836 (Fla. 1<sup>st</sup> DCA 2005). The state has conceded the issue.

However, the order of revocation was not wholly erroneous because Appellant did violate probation on certain other offenses. Accordingly, we REVERSE the sentence only as to lower court case numbers 02-181 and 02-1067, and REMAND for this change to be made. Because the deletion of these two sentences is merely a ministerial act, Appellant need not be present. See, e.g., Davis v. State, 387 So. 2d 490 (Fla. 1<sup>st</sup> DCA 1980).

DAVIS and LEWIS, JJ., CONCUR.