

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

CARLOS CROMARTIE,

Appellant,

v.

CASE NO. 1D07-0352

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed July 8, 2009.

An appeal from the Circuit Court for Leon County.
Kathleen F. Dekker, Judge.

Michael Ufferman, of Michael Ufferman Law Firm, P.A., Tallahassee, for
Appellant.

Bill McCollum, Attorney General, and Natalie D. Kirk, Assistant Attorney
General, Tallahassee, for Appellee.

BROWNING, J.

We find merit in Appellant's argument that the trial judge's stated policy of mechanically rounding up a prison sentence to the nearest whole number (in this case, from 7.83 years to 8 years originally and from 6.16 years to 7 years on

resentencing) without any reflection on the individual merits of a particular defendant's case is arbitrary and consequently a denial of due process. Yet we are constrained to AFFIRM as the argument was not raised contemporaneously. See Jackson v. State, 983 So. 2d 562 (Fla. 2008); Brown v. State, 994 So. 2d 480 (Fla. 1st DCA 2008).

VAN NORTWICK, J., CONCURS; HAWKES, C.J., CONCURS IN RESULT ONLY.