

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2008

THEODORE KOPER,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D07-1235

[August 13, 2008]

PER CURIAM.

Theodore Edward Koper, III, timely appeals an order revoking his probation, imposed after Koper entered a negotiated plea to a charge of driving with a suspended license and causing death or great bodily harm, and sentencing him to 94.65 months (nearly 8 years) incarceration. While Koper raises a number of points on appeal, we find his claim that the trial court abused its discretion in denying his motion to continue the final VOP hearing to be dispositive and to compel reversal and remand. *See McKay v. State*, 504 So. 2d 1280, 1282 (Fla. 1st DCA 1986) (setting forth factors to be considered by judge in ruling on motion for continuance to allow recently-retained counsel time to prepare); *see also J.S. v. State*, 796 So. 2d 1256 (Fla. 4th DCA 2001) (recognizing that trial court's ruling on motion for continuance is reviewed for an abuse of discretion). Our holding makes it unnecessary to address Koper's other claims on appeal.

Reversed and Remanded.

STEVENSON, MAY, JJ., and LABARGA, JORGE, Associate Judge, concur.

* * *

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Pedro E. Dijols, Judge; L.T. Case No. 03-4580 CF10A.

H. Scott Fingerhut of H. Scott Fingerhut, P.A., Miami, for appellant.

Bill McCollum, Attorney General, Tallahassee, and Melanie Dale Surber, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.