

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

PAUL WALKER MARTIN,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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Case No. 2D04-542

Opinion filed June 22, 2005.

Appeal from the Circuit Court for Hillsborough
County; Chet A. Tharpe, Judge.

James Marion Moorman, Public Defender,
and Judith Ellis, Assistant Public Defender,
Bartow, for Appellant.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Anne Sheer Weiner,
Assistant Attorney General, Tampa,
for Appellee.

FULMER, Judge.

Paul Walker Martin appeals from an order revoking his community control and sentencing him to sixty months in prison. The trial court found that Martin had violated conditions 3, 9, 10, 11, and 12 of the community control order. The affidavit charging the violation of community control alleges a violation of condition 10 by the failure to pay restitution and court costs. On appeal, Martin argues that the trial court's

finding with regard to condition 10 was error as there was no evidence to support a violation of that condition. The State agrees and suggests that this court remand for the trial court to strike from the revocation order the reference to a condition 10 violation. The evidence supported the remaining violations, and those violations were substantial. The State proved that Martin absconded from his community control. Thus, we affirm the revocation, but we reverse the revocation order in part and remand for the trial court to strike the finding of a violation of condition 10 from the order. See Hawkins v. State, 884 So. 2d 496 (Fla. 2d DCA 2004).

Affirmed in part, reversed in part, and remanded.

STRINGER and VILLANTI, JJ., Concur.