



essential requirements of law, we grant the writ and quash the order denying Jefferson's habeas petition.

In 1992, Jefferson pleaded no contest to second-degree murder. The trial court sentenced him to fifteen years in prison. The sentencing order provided that Jefferson's state sentence would be "concurrent . . . and coterminous with Federal Case 91-693-CR-Kehoe" (emphasis added). Upon sentencing, Jefferson commenced serving the remainder of his state sentence while in federal custody.

On June 8, 1999, the FPC sent a letter to the federal penitentiary in Marion, Illinois, stating that Jefferson had been released by the Florida Department of Corrections (DOC) as of March 3, 1999 (due to accumulated gain time), but would remain under state supervision until March 16, 2006. Jefferson never received the letter and was never informed that he would be placed on state conditional release supervision after his release from the federal penitentiary.

On October 8, 2004, Jefferson was released from federal prison and placed on federal probation. He received no instructions requiring him to report to a state conditional release supervisor (CRS). In December 2005, a newly assigned CRS noticed the error. She telephoned Jefferson on January 3, 2006, and informed him that she was his CRS. Jefferson responded, "who in the f--- are you," after which the CRS hung up. She then called Jefferson's federal probation officer, who informed her that Jefferson was scheduled to enter a residential treatment program. On January 6, 2006, at 11:05 a.m., upon learning that Jefferson had been asked to leave the treatment

program,<sup>1</sup> the CRS called and instructed him to report to her office by 1:00 p.m. that same day. Jefferson said he would be there as soon as he could get a ride. He arrived on January 12, 2006. He signed the notification of the terms and conditions of his conditional release on that date.

The CRS filed a notice of violation of conditional release based on Jefferson's failure to appear on January 6, 2006, as instructed. Jefferson requested counsel for a scheduled FPC hearing. The request was denied. After the hearing, the FPC revoked Jefferson's conditional release. The trial court denied Jefferson's habeas petition.

In his petition, Jefferson argued that because his state sentence was concurrent and coterminous with his federal sentence, his state sentence ended when he was released from federal prison. Thus, he claims, he could not have been on state conditional release supervision at the time of his alleged violation on January 6, 2006. We agree. Because we grant Jefferson's certiorari petition on this basis, we decline to address the other issues he raised.

A coterminous sentence is "a sentence that runs concurrently with another and terminates simultaneously." Pearson v. Moore, 767 So. 2d 1235, 1237 n.2 (Fla. 1st DCA 2000). Here, the trial court made Jefferson's fifteen-year state sentence coterminous with a federal sentence. However, the federal sentence was not a comparable fifteen-year sentence; rather, it was a sentence of fifteen years' imprisonment followed by five years' probation. Thus the sentence appears to make a

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<sup>1</sup> Jefferson violated his federal parole as well for reasons unrelated to this case. The U.S. Marshal's Service has a detainer on Jefferson pending his release from state custody.

fifteen-year state sentence coterminous with a twenty-year federal sentence. At first blush, the apparent result in this case is inconsistent with logic and the purpose behind coterminous sentences. See Moore v. Pearson, 789 So. 2d 316, 319 (Fla. 2001) (“[A] coterminous sentence is a sentencing decision in which a court exercises its discretion to mitigate a defendant's sentence.”). Nevertheless, we do not attach error to the trial court’s sentence. Instead, we conclude that the sentence necessarily reflects the trial court’s intention that Jefferson’s fifteen-year state sentence should end when the fifteen-year incarcerative portion of his federal sentence ended. As a result, Jefferson’s state sentence ended when he was released from federal prison on October 8, 2004, and he was not subject to state conditional release supervision thereafter.

The FPC correctly points out that the conditional release supervision program requires releasees to remain under supervision after release from prison for a period of time equal to the amount of gain time awarded. See Duncan v. Moore, 754 So. 2d 708, 710 (Fla. 2000); Rivera v. Singletary, 707 So. 2d 326, 327 (Fla. 1998). Additionally, where a defendant is sentenced to concurrent prison terms, the State “may use [the] unexpired conditional release-eligible sentence to determine the length of the supervision and then toll the running of that supervision period until the inmate has been released from prison” on the longer sentence. See Evans v. Singletary, 737 So. 2d 505, 508-09 (Fla. 1999). This is what the FPC has attempted to do here. If the instant case involved only concurrent sentences, the FPC’s point would be well taken. But, to agree with the FPC’s argument that Jefferson must serve his accumulated gain time under conditional release supervision after his release from federal prison would require a conclusion that the trial court intended to structure a shorter sentence to be coterminous

with a longer sentence. Such an incongruous result could not have been the trial court's intention.

Finally, we cannot agree with the FPC's argument that Jefferson must be placed on conditional release supervision solely because of the mandatory nature of the conditional release program. To do so would violate the separation of powers doctrine by allowing the FPC to ignore the sentence imposed by the trial court. See art. I, § 18, Fla. Const.; Pearson, 789 So. 2d at 319.

Accordingly, Jefferson's petition for writ of certiorari is granted, the circuit court's order denying the petition for writ of habeas corpus is quashed, and the case is remanded with instructions for discharge.

Petition granted, order quashed, and cause remanded.

DAVIS and LaROSE, JJ., and ST. ARNOLD, JACK R., ASSOCIATE JUDGE, Concur.