

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

BRIAN CARL RICHARDS,

Appellant,

v.

Case No. 5D16-412

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed December 16, 2016

Appeal from the Circuit Court
for Orange County,
Greg A. Tynan, Judge.

James S. Purdy, Public Defender, and
Sean Kevin Gravel, Assistant Public
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Andrea K. Totten,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

AFFIRMED. *See Orange v. State*, 983 So. 2d 4, 5-6 (Fla. 3d DCA 2007) (noting that when defendant who agrees to appear at sentencing as part of plea is prevented from appearing in court by an arrest, fact of arrest standing alone cannot justify finding that defendant willfully failed to appear; however, when it is established that defendant

committed new criminal offense after entering plea, and defendant's incarceration on the new charge causes failure to appear, defendant's failure to appear can be considered a willful and material breach of an agreement to appear because it was caused by his willful act of committing the crime).

LAWSON, C.J., EVANDER and COHEN, JJ., concur.