

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

STATE OF FLORIDA,

Appellant,

v.

Case No. 5D16-488

MOIZ A. GODIL,

Appellee.

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Opinion filed February 24, 2017

Appeal from the Circuit Court
for Orange County,
Alan S. Apte, Judge.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Deborah A. Chance,
Assistant Attorney General, Daytona
Beach, for Appellant.

James S. Purdy, Public Defender, and Noel
A. Pelella, Assistant Public Defender,
Daytona Beach, for Appellee.

PER CURIAM.

The State challenges the sentence imposed in this felony drug case in which the trial court withheld adjudication of guilt without placing Appellee on probation in violation of Florida Rule of Criminal Procedure 3.670. Although Appellee properly concedes error on this point, he nevertheless argues that the judgment must be affirmed because the

alteration of the sentence would violate constitutional double jeopardy principles. We reject Appellee's double jeopardy argument. Because Appellee had no legitimate expectation of finality in the sentence, the double jeopardy clause does not bar the correction of the illegal sentence. *Dunbar v. State*, 89 So. 3d 901, 905 (Fla. 2012).

On remand, the trial judge shall either adjudicate Appellee guilty or impose probation.

REVERSED AND REMANDED.

ORFINGER, TORPY and BERGER, JJ., concur.