

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

JUNIOR ALEXIS,

Appellant,

v.

Case No. 5D19-1032

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed November 8, 2019

3.800 Appeal from the Circuit
Court for Orange County,
Gail A. Adams, Judge.

Junior Alexis, Chipley, pro se.

No Appearance for Appellee.

PER CURIAM.

Appellant challenges the order denying his Florida Rule of Criminal Procedure 3.800(a) motion to correct an illegal sentence. We reverse, holding that the sentence imposed following revocation of Appellant's youthful offender probation was illegal.

Appellant pled guilty to grand theft, and the trial court sentenced him as a youthful offender to two years in prison followed by probation. After Appellant committed a substantive violation of probation, the court sentenced him to a ten-year prison term. In the sentencing order, the trial court specified that Appellant was to maintain his youthful

offender status. Thereafter, Appellant filed a motion challenging this sentence as illegal. The court denied the motion, and this appeal follows.

Appellant argues that his sentence is illegal because it imposes an adult sanction but requires that he maintain his youthful offender status. We agree.

When applying section 948.06(2)(b), Florida Statutes, the Florida Supreme Court has held that, after revoking a youthful offender's probation for a substantive violation, the sentencing court can impose a sentence according to the options it had at the original sentencing proceeding. Eustache v. State, 248 So. 3d 1097, 1102 (Fla. 2018). Thus, the sentencing court is authorized to impose a youthful offender sentence under the six-year sentencing cap or to impose an adult sanction. Id. Notably, "when a youthful offender commits a substantive violation of probation and the trial court elects to impose a sentence in excess of the six-year cap, the sentence necessarily becomes an adult CPC sentence such that the defendant does *not* retain his or her 'youthful offender status.'" Id.; see also Granger v. State, 252 So. 3d 769, 769 (Fla. 4th DCA 2018).

Here, following the revocation of Appellant's youthful offender probation for a substantive violation, the trial court imposed an adult sanction. Thus, the court lacked authority to also require that Appellant retain his youthful offender status.¹

Accordingly, we find Appellant's sentence illegal and remand for the trial court to conduct a resentencing hearing at which the court may impose a youthful offender sentence under the six-year cap or impose an adult sanction whereby Appellant loses his youthful offender status.

¹ Appellant incorrectly asserts that the trial court must maintain his original youthful offender status when imposing a sentence for a substantive violation of probation.

REVERSED and REMANDED for further proceedings.

EDWARDS and GROSSHANS, JJ., and JACOBUS, B.W., Senior Judge, concur.