

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

AUSTIN HALL,

Appellant,

v.

Case No. 5D19-2728

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed July 24, 2020

Appeal from the Circuit Court
for Orange County,
Denise Beamer, Judge.

James S. Purdy, Public Defender, and
Edward J. Weiss, Assistant Public
Defender, Daytona Beach, for Appellant.

Ashley Moody, Attorney General,
Tallahassee, and Kaylee D. Tatman, and
Kristen L. Davenport, Assistant Attorneys
General, Daytona Beach, for Appellee.

ON CONCESSION OF ERROR

PER CURIAM.

Austin Hall appeals the sentence imposed following his conviction of burglary of a dwelling with an assault or battery with a firearm (count 1).¹ The jury found Hall guilty and made a special finding that Hall actually possessed a firearm. Hall was sentenced to thirty-five years in prison with a twenty-five-year minimum mandatory. He contends, and the State concedes, that the twenty-five-year minimum mandatory is improper. Instead, pursuant to section 775.087(2)(a)1., Florida Statutes (2017), Hall should have received a ten-year minimum mandatory. We accept the State's concession.

We affirm Hall's convictions, but remand this matter to the trial court with directions that the sentencing documents be amended to reflect the thirty-five-year sentence with a ten-year minimum mandatory on count 1. Hall need not be present for resentencing.

AFFIRMED in part, REVERSED in part, and REMANDED.

ORFINGER, LAMBERT and SASSO, JJ., concur.

¹ Hall does not appeal his convictions or sentences for robbery with a firearm (count 2), or aggravated battery with a firearm or causing great bodily harm (count 3).