

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

JERVONALD SIMILIEN,

Appellant,

v.

Case No. 5D19-3476

STATE OF FLORIDA,

Appellee.

Opinion filed June 25, 2021

Appeal from the Circuit
Court for Seminole County,
Donna L. McIntosh, Judge.

Matthew J. Metz, Public Defender,
and Joseph Chloupek, Assistant
Public Defender, Daytona Beach, for
Appellant.

Ashley Moody, Attorney General,
Tallahassee, and Nora Hutchinson
Hall, Assistant Attorney General,
Daytona Beach, for Appellee.

PER CURIAM.

We reverse and remand this cause solely for the purpose of correcting a sentencing error as to Count Three. The court's oral pronouncement stated that Appellant was entitled to forty-four days probationary credit on that count; however, the written order failed to include that credit. "When there is a conflict between the oral pronouncement and the written sentence, the oral pronouncement controls." *Webb v. State*, 302 So. 3d 1077, 1079 (Fla. 5th DCA 2020) (citing *Williams v. State*, 957 So. 2d 600, 603 (Fla. 2007)).

The State commendably and correctly concedes the need for entry of a corrected written sentence. We find that the trial court erred in denying Appellant's rule 3.800 motion seeking that correction. We remand for entry of an amended order that includes that credit and otherwise mirrors the court's oral pronouncement.

After careful consideration, we affirm as to all remaining issues.

AFFIRMED and REMANDED, to correct sentencing error.

EDWARDS, SASSO and NARDELLA, JJ., concur.