

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

JANUARY TERM 2008

BARRY DEABORN,

Appellant,

v.

Case No. 5D07-912

STATE OF FLORIDA,

Appellee.

Opinion filed June 6, 2008

Appeal from the Circuit Court for Volusia County,
J. David Walsh, Judge; Frank Marriott, Jr., Judge;
James R. Clayton, Judge.

James S. Purdy, Public Defender, and Kevin R.
Holtz, Assistant Public Defender, Daytona Beach,
for Appellant.

Bill McCollum, Attorney General, Tallahassee,
and Wesley Heidt, Assistant Attorney General,
Daytona Beach, for Appellee.

PER CURIAM.

The issue presented by this appeal is whether the trial court erred in its consideration of the motion of the appellant, Barry Deaborn, to correct an illegal sentence. The appellant is partially correct. Accordingly, this case is remanded to the trial court to delete the designation of the appellant as a sexual predator and to delete the requirement for electronic monitoring, if that has not already been accomplished, and instead to designate the appellant as a sexual offender pursuant to section

943.0435(1)(a)1.a.(I) and (II), Florida Statutes (2007). See *Ames v. State*, 870 So. 2d 203 (Fla. 1st DCA 2004), *review denied*, 917 So. 2d 191 (Fla. 2005). The judgment and sentence are otherwise affirmed as rendered.

AFFIRMED in part, REVERSED in part, and REMANDED.

SAWAYA, MONACO and TORPY, JJ., concur.