

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

JULY TERM 2011

RYAN PAGE,

Appellant,

v.

Case No. 5D11-493

STATE OF FLORIDA,

Appellee.

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Opinion filed November 18, 2011

Appeal from the Circuit Court
for Orange County,
Roger J. McDonald, Judge.

James S. Purdy, Public Defender, and
Allison A. Havens, Assistant Public
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Megan Saillant,
Assistant Attorney General, Daytona
Beach, for Appellee.

MONACO, J.

The appellant, Ryan Page, was convicted of a third-degree felony and three misdemeanors. He was sentenced to time served on the misdemeanors and thirty months imprisonment, followed by thirty-six months probation on the felony. He asserts that his sentence exceeds the maximum permitted. Mr. Page timely filed a motion to correct illegal sentence, but no order was rendered on the motion within the time

permitted by rule 3.800(b), Florida Rules of Criminal Procedure, the motion was deemed to be denied, and this appeal followed. We agree with Mr. Page that the sentence exceeds the permissible maximum.

When a trial court sentences a criminal defendant to a term of imprisonment followed by a term of probation, the aggregate of the two cannot exceed the statutory maximum. See *Gonzalez v. State*, 816 So. 2d 720, 721 (Fla. 5th DCA 2002). The maximum sentence for a third-degree felony is five years imprisonment. See § 784.082(3)(d), Fla. Stat. (2010). The sentence imposed on Mr. Page exceeds the maximum by six months. The State properly concedes that we should reverse and remand for a new sentencing within the statutory maximum.

Accordingly, we affirm the judgment in all respects, and reverse the sentence. We remand for a new sentencing hearing and the imposition of a lawful sentence.

AFFIRMED in part, REVERSED in part, and REMANDED with instructions.

PALMER and COHEN, JJ., concur.