

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

JANUARY TERM 2013

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

MARKEESE S. MOSES,

Appellant,

v.

Case No. 5D12-781

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed February 22, 2013

Appeal from the Circuit Court
for Marion County,
Hale R. Stancil, Judge.

James S. Purdy, Public Defender, and
Meghan Ann Collins, Assistant Public
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Robin A. Compton,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

The State properly concedes that the trial court erred in finding that Appellant violated Conditions 2 and 15 of his probation. However, there was competent substantial evidence to support the trial court's determination that Appellant willfully violated Condition 5 by committing a new crime. Our review of the record convinces us that based only on the finding that Appellant had willfully violated Condition 5, the trial

court would have revoked Appellant's probation and imposed the same sentence. Accordingly, remand for reconsideration of the order revoking probation or the sentence is not necessary. *Lawson v. State*, 941 So. 2d 485, 488 n.2 (Fla. 5th DCA 2006), *approved*, 969 So. 2d 222 (Fla. 2007).

AFFIRMED; Findings as to Conditions 2 and 15 STRICKEN.

ORFINGER, C.J., SAWAYA and EVANDER, JJ., concur.