

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

VINCENT DEMOND WESLEY,

Appellant,

v.

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

CASE NO. 1D02-1816

STATE OF FLORIDA,

Appellee.

Opinion filed July 11, 2003.

An appeal from the Circuit Court for Escambia County.

Judge Jan Shackelford.

Nancy A. Daniels, Public Defender, and David P. Gauldin, Assistant Public Defender,
Tallahassee, for Appellant.

Charlie Crist, Attorney General, and Anne C. Toolan, Assistant Attorney General,
Tallahassee, for Appellee.

BARFIELD, J.

The state concedes that the contempt proceedings below did not comply with the due process provisions incorporated in Florida Rule of Criminal Procedure 3.840, and that this constituted fundamental error. The appellant's argument that the adjudication of contempt

was not supported by the record evidence was not preserved for appellate review. The judgment and sentence are REVERSED and the case is REMANDED to the trial court for further proceedings consistent with rule 3.840, see Paletti v. State, 727 So. 2d 291 (Fla. 1st DCA 1999); Hunt v. State, 659 So. 2d 363 (Fla. 1st DCA 1995).

BOOTH and ALLEN, JJ., CONCUR.