

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

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

JAMES LEE NAILS,

Appellant,

v.

CASE NOS. 1D04-0319 and 1D04-0322

STATE OF FLORIDA,

Appellee.

Opinion filed April 29, 2005.

An appeal from the Circuit Court for Columbia County.
Paul S. Bryan, Judge.

Nancy A. Daniels, Public Defender; and A. Victoria Wiggins, Assistant Public
Defender, Tallahassee, for Appellant.

Charlie Crist, Attorney General; and Philip W. Edwards, Assistant Attorney
General, Tallahassee, for Appellee.

BROWNING, J.

We affirm without additional comment Appellant's convictions and sentences
in Case No. 1D04-319. In Case No. 1D04-322, Appellant challenges the final order

revoking his probation. Competent substantial evidence in the record established that Appellant violated Condition (5) of his terms of probation by committing the crimes for which he was convicted in Case No. 1D04-319. We affirm the probation revocation order and remand to the trial court with instructions to strike the reference to Condition (10) in the written revocation order. See McCloud v. State, 765 So. 2d 826 (Fla. 2d DCA 2000). The transcript of the revocation hearing indicates that the State elected not to argue a violation of Condition (10), but to focus solely on Condition (5), to which the trial court orally agreed. No evidence was offered relating to an alleged violation of Condition (10). Appellant need not be present for the correction of this scrivener's error. See Jones v. State, 390 So. 2d 820 (Fla. 1st DCA 1980).

We AFFIRM the convictions and sentences in Case No. 1D04-319 and the probation revocation order in Case No. 1D04-322 and REMAND with instructions to the trial court to strike the reference to Condition (10) in the written revocation order. WOLF, C.J.; and DAVIS, J., CONCUR.