

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

LEO TOBY,  
Appellant,

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

v.

CASE NO. 1D05-3926

STATE OF FLORIDA,  
Appellee.

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Opinion filed December 22, 2005.

An appeal from the Circuit Court for Duval County.  
Henry E. Davis, Judge.

Bill White, Public Defender; Ward L. Metzger, Assistant Public Defender;  
Jacksonville, for Appellant.

Charlie Crist, Attorney General; Thomas D. Winokur, Assistant Attorney General,  
Tallahassee, for Appellee.

PER CURIAM.

The lower court found appellant guilty of direct criminal contempt without first  
affording appellant an opportunity to present excusing or mitigating circumstances,

as is required by Florida Rule of Criminal Procedure 3.830. Because the trial court did not strictly comply with the provisions of Rule 3.830, we reverse without prejudice to the institution of proper contempt proceedings. See Garrett v. State, 876 So. 2d 24, 25-26 (Fla. 1st DCA 2004).

ERVIN, DAVIS and LEWIS, JJ., CONCUR.