

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

CHARLES A. DEAS,

Appellant,

v.

CASE NO. 1D08-0087

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed November 17, 2008.

An appeal from the Circuit Court for Suwannee County.
David W. Fina, Judge.

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

Bill McCollum, Attorney General, and Giselle Lylen Rivera, Assistant Attorney
General, Tallahassee, for Appellee.

PER CURIAM.

Upon review of the record, we conclude that the sentence appellant was
serving when he violated his probation was a true split sentence as described in
Evans v. State, 730 So. 2d 768, 769 (Fla. 1st DCA 1999). When a defendant has

received a true split sentence and subsequently violates the terms of probation, the trial court may not impose a new sentence lasting longer than the suspended portion of the split sentence. See id. We therefore conclude that, under the case law, the trial court erred in sentencing appellant to a term of incarceration lasting longer than the suspended one-year jail sentence.

We REVERSE and REMAND for resentencing.

KAHN, VAN NORTWICK, and PADOVANO, JJ., CONCUR.