

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

JUANDALYN PITTMAN,

Appellant,

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

v.

CASE NO. 1D11-148

STATE OF FLORIDA,

Appellee.

---

Opinion filed August 15, 2011.

An appeal from the Circuit Court for Leon County.  
Judith W. Hawkins, Judge.

Nancy A. Daniels, Public Defender, and Steven L. Seliger, Assistant Public  
Defender, Tallahassee, for Appellant.

Pamela Jo Bondi, Attorney General, and Thomas D. Winokur and Jay Kubica,  
Assistant Attorneys General, Tallahassee, for Appellee.

PER CURIAM.

The State has properly conceded that the trial court lacked jurisdiction in  
Leon Circuit Court Cases 2005-CF-16 and 2006-CF-2734 to impose further  
criminal punishment based on a finding of violation of probation, where the period

of probation had expired before the appellant committed the 2009 and 2010 acts on which the Department of Corrections based its affidavits alleging violations of probation. The trial court erred in finding a violation of probation and in denying the motions to dismiss the untimely filed affidavits. On this concession of error, we VACATE the judgment and sentence and REMAND to the trial court with instructions to enter a dismissal order pursuant to the reasoning in State v. Francois, 695 So. 2d 695 (Fla. 1997); State v. Summers, 642 So. 2d 742 (Fla. 1994); and Gonzalez-Ramos v. State, 46 So. 3d 67, 69-70 (Fla. 5th DCA 2010) (reversing order finding the defendant in violation of probation and remanding with instructions to the trial court to vacate the prison sentence).

BENTON, C.J., ROBERTS and RAY, JJ., CONCUR.