

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

MARCUS LAWAUN BRYANT,
Appellant,

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

v.

CASE NO. 1D13-1359

STATE OF FLORIDA,
Appellee.

Opinion filed August 30, 2013.

An appeal from the Circuit Court for Escambia County.
Gary L. Bergosh, Judge.

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

Pamela Jo Bondi, Attorney General, Tallahassee, for Appellee.

PER CURIAM.

In this Anders¹ appeal, we affirm the appellant's convictions and sentences.
However, the written judgment in case 12-CF-1843 reflects a sentence of 10 years
in prison for the offense of the attempted burglary of an unoccupied dwelling and

¹ Anders v. California, 386 U.S. 738 (1967).

the burglary of an unoccupied structure in counts I and II. The attempted burglary of an unoccupied structure is a third-degree felony punishable by a maximum of 5 years in prison. §§ 810.02(4)(a); 775.082(3)(c), Fla. Stat. (2012). Similarly, the burglary of an unoccupied structure is a third-degree felony, also subject to a maximum sentence of 5 years in prison. §§ 810.02(3)(b); 777.04(4)(d)(1); 775.082(3)(c), Fla. Stat. (2012).

At sentencing, the trial court orally pronounced sentences of 5 years in prison for the third-degree felonies that were not habitualized. None of the offenses in case 12-CF-1843 were habitualized. Therefore, as the sentences imposed in counts I and II of this case were clearly the product of a scrivener's error, the written judgment must be corrected to conform to the oral pronouncement. See Turner v. State, 270 So. 2d 1288, 1288 (Fla. 1st DCA 2000) (affirming and remanding in an Anders appeal with instructions to conform the judgment to the oral pronouncement awarding credit for time served). Appellant need not be present for the correction of this clerical error.

AFFIRMED but REMANDED to correct the written sentence in case number 12-CF-1843 to reflect 5-year prison sentences as to counts I and II.

LEWIS, C.J., MARSTILLER and OSTERHAUS, JJ., CONCUR.