

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

CLAY DAWKINS,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D14-167

[June 1, 2016]

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Raag Singhal, Judge; L.T. Case No. 01010399CF10A.

Carey Haughwout, Public Defender, and Mara C. Herbert, Assistant Public Defender, West Palm Beach, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Matthew Steven Ocksrider, Assistant Attorney General, West Palm Beach, for appellee.

CONNER, J.

Clay Dawkins appeals his sentence after the trial court found that he willfully and substantially violated his probation, and sentenced him to serve twenty years in the Department of Corrections. Dawkins argues that the sentence is illegal because the trial court relied upon material misinformation regarding the amount of gain-time that Dawkins would receive, and the substance of Dawkins's original plea agreement. We disagree, and affirm.

After reviewing the record, including the sentencing hearing, we are satisfied that the trial court did not rely upon any presumed amount of gain-time that Dawkins would receive, instead stating that it "can't tell [the Department of Corrections] what to do with their credits and all of that," and only stating what it *believed* Dawkins's sentence "could be" with gain-time.

Additionally, we do not read the record to support the contention that the trial court was misinformed regarding the substance of Dawkins's original plea agreement.

Therefore, we affirm Dawkins's judgment and sentence. However, as we stated in *Jackson v. State*, 925 So. 2d 1168, 1170 n.2 (Fla. 4th DCA 2006):

Although there is no evidence that the court was mistaken, [the defendant] can file a motion for reduction of the sentence pursuant to [Florida Rule of Criminal Procedure] 3.800(c) after our mandate issues if he believes that the trial court may be inclined to lessen his sentence.

Dawkins has available the same opportunity in this case, should he so choose.

Affirmed.

WARNER and FORST, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.