

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

ISAIAH SERNA,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

Nos. 4D15-1035 and 4D15-1036

[July 20, 2016]

Consolidated appeals from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Stephen A. Rapp, Judge; L.T. Case Nos. 2012CF013854AMB and 2013CF001009AMB.

Cherry Grant and Margaret Good-Earnest of Good Earnest Law, P.A., Lake Worth, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Jessenia J. Concepcion, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

Affirmed. Sentencing by a successor judge was not objected-to and thus not preserved for review. *See Madrigal v. State*, 683 So. 2d 1093, 1097 (Fla. 4th DCA 1996); *Davis v. State*, 677 So. 2d 1366, 1368 (Fla. 4th DCA 1996). Further, defense counsel waived the preparation of a presentence investigation report (“PSI”). *See Ortiz v. State*, 9 So. 3d 774, 775 (Fla. 4th DCA 2009). Appellant contends that we should treat these issues as ineffective assistance of counsel on the face of the record. We decline to do so, as there could have been strategic reasons for not requesting a PSI and for opting to be sentenced before the successor judge.¹ Our affirmance, however, is without prejudice to filing a motion for postconviction relief.

¹ As to the other matters raised regarding counsel’s mistakes as to the applicability of youthful offender sentencing on the original charges and the appropriate statutory maximums, although counsel was wrong, these errors were corrected by the court.

CIKLIN, C.J., WARNER and GERBER, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.