

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

JIMMY LEE WARD,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D16-1193

[June 6, 2018]

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, St. Lucie County; Steven J. Levin, Judge; L.T. Case No. 56-2015-CF001638-A.

Carey Haughwout, Public Defender, and Peggy Natale, Assistant Public Defender, West Palm Beach, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Joseph D. Coronato, Jr., Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

A simple addition error on appellant's sentencing scoresheet led the state, defendant, and the trial judge to believe that appellant's lowest permissible sentence was 99.45 months instead of 57.45 months. The scoresheet error is not harmless because the record does not conclusively show that the judge would have sentenced the defendant to the same 99.45 month prison term, having stated that he was not inclined to "go against" the scoresheet. *See Brooks v. State*, 969 So. 2d 238, 241 (Fla. 2007) ("When scoresheet error is presented . . . any error is harmless if the record conclusively shows that the trial court *would have imposed* the same sentence using a correct scoresheet.") (emphasis in original). We therefore reverse and remand to the circuit court for resentencing.

GERBER, C.J., GROSS and CONNER, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.