

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT

**TIMOTHY JAMES BRADSHAW,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D17-2493

[April 4, 2018]

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, St. Lucie County; Gary L. Sweet, Judge; L.T. Case No. 562016CF001574A.

Carey Haughwout, Public Defender, and Tatjana Ostapoff, Assistant Public Defender, West Palm Beach, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Richard Valuntas, Assistant Attorney General, West Palm Beach, for appellee.

GERBER, C.J.

The defendant appeals his thirty-month concurrent sentences for giving false information to a pawnbroker and dealing in stolen property, arguing that the circuit court improperly considered the defendant's later arrest for possession of cocaine for which the defendant was not convicted because the state nolle prossed that charge. We agree with the defendant's argument, and therefore vacate the sentences and remand for resentencing before a different judge. *See Norvil v. State*, 191 So. 3d 406, 410 (Fla. 2016) (“[A] trial court may not consider a subsequent arrest without conviction during sentencing for the primary offense.”); *Smith v. State*, 232 So. 3d 430, 431 (Fla. 4th DCA 2017) (“In light of *Norvil*, we have since vacated a defendant's sentence and remanded for resentencing when a court considered subsequent crimes, even though the sentence was within the statutory limits.”); *Hillary v. State*, 232 So. 3d 3, 4-5 (Fla. 4th DCA 2017) (vacating sentences for primary offenses and remanding for resentencing before a different judge where court considered defendant's later arrest without conviction).

*Sentences vacated; remanded for resentencing.*

MAY and DAMOORGIAN, JJ., concur.

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***Not final until disposition of timely filed motion for rehearing.***