

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

STEVEN JOSEPH PEAVEY,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D19-3958

[September 9, 2020]

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, St. Lucie County; Charles A. Schwab, Judge; L.T. Case No. 562018CF003468A.

Carey Haughwout, Public Defender, and Benjamin Eisenberg, Assistant Public Defender, West Palm Beach, for appellant.

Ashley Moody, Attorney General, Tallahassee, and Celia Terenzio, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

Appellant Steven Peavey appeals his judgment and sentence following a plea. We affirm the judgment and sentence but remand for correction of the written sentencing orders to conform with the trial court's oral pronouncement.

Appellant entered an open plea to burglary of a conveyance (count one) and grand theft (count two). The trial court orally sentenced him to three years in prison on count one and five years of probation on count two, with the probation to be served consecutively to the sentence on count one. However, the court entered a written sentencing order incorrectly reflecting that it imposed a split sentence and a written probation order incorrectly reflecting that it imposed prison time to be served during the term of probation.

On remand, the trial court shall amend the written orders to reflect that it did not impose a split sentence or prison time to be served during the term of probation. *See Williams v. State*, 957 So. 2d 600, 603 (Fla. 2007)

(recognizing that the court's oral pronouncement of a sentence controls over an inconsistent written sentencing document); *Raya v. State*, 183 So. 3d 1120 (Fla. 4th DCA 2015) (affirming the convictions and sentences in an *Anders* appeal but remanding for correction of a scrivener's error in the written sentencing order). Appellant need not be present for this ministerial action.

Affirmed and remanded with instructions.

GROSS, CIKLIN and FORST, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.