

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT

JANUARY TERM 2005

**MICHAEL WILSON,**

Appellant,

v.

**STATE OF FLORIDA,**

Appellee.

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CASE NO. 4D03-3210

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court may grant relief even when presented for the first time on appeal.”) (citing Holiday v. State, 753 So. 2d 1264, 1269 (Fla. 2000)).

AFFIRMED IN PART, REVERSED AND REMANDED IN PART.

GUNTHER, STONE and STEVENSON, JJ.,  
concur.

***NOT FINAL UNTIL DISPOSITION OF ANY  
TIMELY FILED MOTION FOR REHEARING.***

Opinion filed March 9, 2005

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Peter M. Weinstein, Judge; L.T. Case Nos. 98-001190 CF10A & 98-013971 CF10A.

Carey Haughwout, Public Defender, and Alan T. Lipson, Assistant Public Defender, West Palm Beach, for appellant.

Charles J. Crist, Jr., Attorney General, Tallahassee, and Heidi L. Bettendorf, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

Wilson appeals the revocation of probation in two separate criminal cases. We affirm the revocation of probation in case number 98-13971 without comment. However, we reverse the revocation of probation in case number 98-1190 because, as the State concedes, Wilson was not placed on probation in this case during the original sentencing proceeding. Therefore, the trial court did not have jurisdiction over case number 98-1190 when the sentence of two years of community control had run. See McAvoy v. State, 760 So. 2d 1120 (Fla. 4th DCA 2000); see also J.D. v. State, 849 So. 2d 458 (Fla. 4th DCA 2003) (“Although this issue was not raised at the initial . . . hearing below, a lack of jurisdiction constitutes fundamental error from which this