

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

JOSHUA A. SWARZ,)	
)	
Appellant,)	
)	
v.)	Case No. 2D15-179
)	
STATE OF FLORIDA,)	
)	
Appellee.)	
_____)	

Opinion filed March 23, 2016.

Appeal from the Circuit Court for Manatee
County; Edward Nicholas, Judge.

Andrea Flynn Mogensen of Law Office
of Andrea Flynn Mogensen, Sarasota,
for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Jonathan P. Hurley,
Assistant Attorney General, Tampa, for
Appellee.

PER CURIAM.

Joshua A. Swarz appeals the sentences imposed in trial court case
numbers 10-CF-3877 and 11-CF-1117 after the revocation of his probation in those
cases based upon his commission of new law violations. Mr. Swarz also appeals the

judgments and sentences imposed for the new law violations in trial court case numbers 2013-CF-3090, 2013-CF-3119, and 2013-CF-3321. We affirm in all respects.

Mr. Swarz was fifteen years old at the time of his offense in case number 10-CF-3877 and sixteen years old at the time of his offense in case number 11-CF-1117. He was prosecuted as an adult and sentenced as a youthful offender for those cases. Upon the revocation of his probation, the trial court sentenced him to seven years' prison in each case. Although the seven-year sentences imposed upon the revocation of probation were not subject to the six-year sentencing cap because the violations were substantive, see Lee v. State, 67 So. 3d 1199, 1202 (Fla. 2d DCA 2011), the trial court was nevertheless required to maintain his youthful offender status upon revocation of his probation, id. On the new sentencing documents for these two cases, the trial court did not check the box indicating that Mr. Swarz was being sentenced as a youthful offender. Mr. Swarz has not raised this error in this appeal.

Accordingly, our affirmance of Mr. Swarz's judgment and sentences is without prejudice to his right to file a motion to correct an illegal sentence under Florida Rule of Criminal Procedure 3.800(a).

Affirmed.

WALLACE, LaROSE, and BADALAMENTI, JJ., Concur.