

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

BRIAN KEITH CHESSER,)
DOC #525373,)
)
Appellant,)
)
v.)
)
STATE OF FLORIDA,)
)
Appellee.)
_____)

Case No. 2D16-3391

Opinion filed November 8, 2017.

Appeal from the Circuit Court for
Hillsborough County; Daniel L. Perry,
Judge.

Howard L. Dimmig, II, Public Defender,
and Matthew J. Salvia, Assistant Public
Defender, Bartow, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and John M. Klawikofsky,
Assistant Attorney General, Tampa, for
Appellee.

SLEET, Judge.

Brian Chesser appeals the order revoking his probation and his resulting forty-month sentence. He argues that the trial court denied him due process when it interrupted him at the sentencing hearing and refused to listen to his statements before

sentencing him. We agree. See Amason v. State, 76 So. 3d 374, 377 (Fla. 2d DCA 2011) ("A probationer must have an opportunity to present mitigating evidence and argue for sentencing alternatives when the court has sentencing discretion." (citing Black v. Romano, 471 U.S. 606, 614 (1985))); see also Johnpier v. State, 89 So. 3d 996, 996 (Fla. 2d DCA 2012) (reversing probationer's sentence when "the trial court erred by refusing to hear any argument on sentencing").

Accordingly, we affirm the revocation of Chessser's probation but reverse Chessser's sentence and remand to the trial court for a new sentencing hearing.

Affirmed in part, reversed in part, and remanded.

VILLANTI and KHOUZAM, JJ., Concur.