

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

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

|                   |   |                    |
|-------------------|---|--------------------|
| MICHAEL A. FORD,  | ) |                    |
|                   | ) |                    |
| Appellant,        | ) |                    |
|                   | ) |                    |
| v.                | ) | Case No. 2D18-4106 |
|                   | ) |                    |
| STATE OF FLORIDA, | ) |                    |
|                   | ) |                    |
| Appellee.         | ) |                    |
| _____             | ) |                    |

Opinion filed March 18, 2020.

Appeal from the Circuit Court for Hillsborough County; Nick Nazaretian, Judge.

Howard L. Dimmig, II, Public Defender, and Robert D. Rosen, Assistant Public Defender, Bartow, for Appellant.

Ashley Moody, Attorney General, Tallahassee, and Jonathan P. Hurley, Assistant Attorney General, Tampa, for Appellee.

SMITH, Judge.

Michael A. Ford appeals an order revoking his community control and sex offender probation and sentencing him to twenty-five years' incarceration. He presents two issues on appeal, one of which we find of merit: that the trial court's order revoking

his community control and sex offender probation failed to specify the community control conditions Mr. Ford violated. We therefore remand to the trial court for entry of an amended order specifying which conditions Mr. Ford violated.

In October 2017, Mr. Ford pleaded guilty to forty counts of possession of child pornography. The sentencing court ordered Mr. Ford to be placed on community control for a period of two years, to be followed by ten years of sex offender probation. The sentencing court imposed certain conditions on Mr. Ford's community control and probation. Relevant to our discussion is the condition imposed on Mr. Ford prohibiting him from accessing the internet until he completed an internet risk assessment and "safety plan."<sup>1</sup>

In January 2018, Mr. Ford was found to have accessed the internet, and in fact, he admitted to same. At his violation of probation sentencing hearing, the trial court imposed a new additional condition: Mr. Ford was prohibited from having any internet access.<sup>2</sup> Three months later, in March 2018, while conducting a random home check, Mr. Ford's probation officer discovered images of child pornography on Mr. Ford's computer. Upon questioning by his probation officer, Mr. Ford admitted to

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<sup>1</sup>An "internet risk assessment" is where a defendant is evaluated by a qualified practitioner, who prepares a written report that includes certain findings as enumerated in section 948.30(1)(e)(1), Florida Statutes (2017). Upon completion of the assessment, a "safety plan" is prepared by the qualified practitioner, in collaboration with the sex offender, the child victim, and the child victim's parents (as long as the sex offender is not a parent), which details acceptable conditions of contact, if any, between the sex offender and child or children. § 948.30(1)(e)(4).

<sup>2</sup>At the time of the January 2018 violation of probation hearing, Mr. Ford had not yet satisfied the October 26, 2017, condition of his probation requiring that he complete the internet risk assessment and "safety plan."

accessing the internet from his computer. In the amended violation of probation affidavit filed by the probation officer, Mr. Ford was alleged to have violated conditions nine, twenty-one, thirty, and special condition thirty-four.<sup>3</sup> In October 2018, following a bench trial in which Mr. Ford was found in violation of the conditions of his community control, an order was entered revoking his community control and probation and sentencing him on the new law violation. The October 2018 order failed to identify which conditions of his community control Mr. Ford was found to have violated.

In entering a final order of violation of a defendant's probation, trial courts are required to list the specific conditions the defendant violated. Reyes v. State, 9 So. 3d 649, 650 (Fla. 2d DCA 2009). Where a written order revoking probation or community control fails to specify the conditions that were violated, a new order must be entered. See Johnson v. State, 921 So. 2d 715, 717 (Fla. 2d DCA 2006); Haynes v. State, 571 So. 2d 1380, 1382 (Fla. 2d DCA 1990). The October 2018 order revoking Mr. Ford's community control and probation simply states that Mr. Ford "violated the conditions of Community Control and Sex Offender Probation in a material respect by [blank space presumed to be a scrivener's error]. . . . The defendant was found guilty by the court to be in violation." The order here is void of the specific conditions which were violated by Mr. Ford and which formed the basis for the revocation of his community control and probation.

Accordingly, we remand to the sentencing court for entry of an amended order specifying the conditions Mr. Ford violated. Mr. Ford's sentence is otherwise

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<sup>3</sup>All conditions pertained to accessing the internet generally or viewing prohibited images online.

affirmed.

Affirmed in part and remanded in part with instructions.

SILBERMAN and BADALAMENTI, JJ., Concur.