

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

TROY MATTHEW WELCH,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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Case No. 2D19-1980

Opinion filed July 29, 2020.

Appeal from the Circuit Court for
Hillsborough County; Kimberly K.
Fernandez, Judge.

Howard L. Dimmig, II, Public Defender,
and Kevin Briggs, Assistant Public
Defender, Bartow, for Appellant.

Ashley Moody, Attorney General,
Tallahassee, and Helene S. Parnes,
Assistant Attorney General, Tampa, for
Appellee.

LaROSE, Judge.

Troy Matthew Welch appeals the revocation order and resulting sentences in trial court case numbers 16-CF-17245A, 17-CF-6970A, and 17-CF-6971A. We affirm the trial court's revocation of probation and sentences; we remand to correct a scrivener's error in the revocation order.

The trial court stated at the violation of probation (VOP) hearing that Mr. Welch was guilty of two violations: (1) the violation of condition 3 and (2) the "Violation of Modification Order dated 4/16/18" for failing to successfully complete or remain in a drug/alcohol treatment program. The revocation order lists the former violation, but not the latter.

The revocation order fails to comport with the trial court's oral pronouncement. Thus, we remand so that the trial court may correct the scrivener's error in the revocation order. See Bryant v. State, 45 Fla. L. Weekly D520, D520 (Fla. 2d DCA Mar. 6, 2020) (explaining that when the trial court's oral pronouncement of sentence and the written sentencing documents conflict, "[t]he error in the written documents constitutes a scrivener's error that must be corrected so that the written documents comport with the sentence orally imposed"); see, e.g., Kerridge v. State, 45 Fla. L. Weekly D1171, D1171 (Fla. 1st DCA May 18, 2020) (remanding "solely for correction of a scrivener's error in the Order of Revocation, which fails to comport with the court's oral pronouncement").

On remand, the trial court shall enter a corrected revocation order that includes the "Violation of Modification Order dated 4/16/18," alleged in the amended VOP affidavit filed on October 29, 2018. See Kerridge, 45 Fla. L. Weekly at D1171 (remanding for trial court to enter corrected order that includes a violation orally pronounced but not listed in the written order); see also Butler v. State, 450 So. 2d 1283, 1285 (Fla. 2d DCA 1984) (same). Mr. Welch need not be present. See Devlin v. State, 224 So. 3d 803, 804 (Fla. 2d DCA 2017) ("Because correction of these scrivener's errors is a ministerial act, Mr. Devlin's presence is not required.").

Affirmed; remanded for correction of scrivener's error.

NORTHCUTT and SMITH, JJ., Concur.