

DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

JUSTIN LEE MCDANIEL,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

No. 2D19-3134

November 17, 2021

Appeal from the Circuit Court for Hillsborough County; Nick Nazaretian and Barbara Twine Thomas, Judges.

Howard L. Dimmig, II, Public Defender, and Blair Allen, Assistant Public Defender, Bartow, for Appellant.

Ashley Moody, Attorney General, Tallahassee, and Linsey Sims-Bohnenstiehl, Assistant Attorney General, Tampa, for Appellee.

KHOUZAM, Judge.

Justin Lee McDaniel appeals the revocation of his probation and the resulting sentences for burglary of an unoccupied dwelling,

grand theft of a motor vehicle, and grand theft. We affirm in all respects except we reverse the revocation order to correct a scrivener's error.

McDaniel points out, and the State appropriately concedes, that the order of revocation failed to conform to the court's oral findings at the evidentiary hearing. At the hearing, the circuit court found McDaniel "in violation of Condition Five and of the special condition of no contact." But, in contrast, the order of revocation states that McDaniel "admitted to be in violation of Condition #5." While this appeal was pending, the circuit court granted McDaniel's motion to correct sentencing error and amended the judgment and sentence to reflect that McDaniel was found in violation of condition number five as well as the no contact order. However, no amended order of revocation appears to have been entered. Accordingly, we must reverse the revocation order to the extent that it does not conform to the circuit court's oral findings and remand for the correction of this scrivener's error. *See Algieri v. State*, 309 So. 3d 322, 324-25 (Fla. 2d DCA 2021) (affirming revocation of probation and resulting sentences and remanding for entry of an amended revocation order to correct the condition appellant was found to

have violated as well as the inaccurate statement that appellant had admitted to the violation); *Torres v. State*, 244 So. 3d 417, 418 (Fla. 2d DCA 2018) ("[W]e reverse the revocation order to the extent that it incorrectly states that Mr. Torres admitted the violations, and we remand for the trial court to correct this scrivener's error.").

Affirmed in part; reversed in part; remanded with instructions.

CASANUEVA and LABRIT, JJ., Concur.

Opinion subject to revision prior to official publication.