

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

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

LEARIA CHAD MASSALINE,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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Case No. 2D05-2666

Opinion filed September 29, 2006.

Appeal from the Circuit  
Court for Highlands County;  
Olin W. Shinholser, Judge.

James Marion Moorman, Public  
Defender, and Richard P. Albertine,  
Jr., Assistant Public Defender, Bartow,  
for Appellant.

Charles J. Crist, Jr., Attorney  
General, Tallahassee, and  
Deborah Hogge, Assistant  
Attorney General, Tampa, for  
Appellee.

WHATLEY, Judge.

Learia Chad Massaline appeals the amended order revoking his  
probation. We affirm but remand for the trial court to strike two findings.

The trial court found that Massaline violated conditions five, seven, twenty-seven, and twenty-eight of his probation. The greater weight of the evidence supports the finding that Massaline violated conditions five and seven. The State concedes that the trial court erred in finding that Massaline violated conditions twenty-seven and twenty-eight because the State failed to present evidence of his ability to pay the costs of supervision and court costs. Accordingly, these violations must be stricken.

The record is clear that the trial court would have revoked Massaline's probation based on the violation of conditions five and seven alone. Accordingly, we affirm the revocation of Massaline's probation but remand for the trial court to strike the findings that Massaline violated conditions twenty-seven and twenty-eight.

Affirmed; remanded with directions.

CASANUEVA and WALLACE, JJ., Concur.