

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

JEFFREY RUSSELL,)	
)	
Appellant,)	
)	
v.)	Case No. 2D07-2970
)	
STATE OF FLORIDA,)	
)	
Appellee.)	
_____)	

Opinion filed April 15, 2009.

Appeal from the Circuit Court for Lee
County; Edward J. Volz Jr., Judge.

James Marion Moorman, Public Defender,
and Timothy J. Ferreri, Assistant Public
Defender, Bartow, for Appellant.

Jeffrey Russell, pro se.

Bill McCollum, Attorney General,
Tallahassee, and Sonya Roebuck Horbelt,
Assistant Attorney General, Tampa,
for Appellee.

NORTHCUTT, Chief Judge.

We affirm without comment Jeffrey Russell's convictions following his no
contest plea to several sexual offenses involving minors. But as properly conceded by
the State, the probation imposed for counts three and four was not orally pronounced by
the court at sentencing. Accordingly, we reverse and remand solely for the purpose of

striking the probation on those two counts. See Ashley v. State, 850 So. 2d 1265, 1268 (Fla. 2003) (holding that court's oral pronouncement of sentence controls over discrepancy in written sentence).

Affirmed in part, reversed in part, and remanded.

FULMER and KHOUZAM, JJ., Concur.