

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

RICHARD CURTIS THOMPSON,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
)
 _____)

Case No. 2D07-3040

Opinion filed February 13, 2009.

Appeal from the Circuit Court
for Pasco County;
David Seth Walker, Senior Judge.

James Marion Moorman, Public
Defender, and Pamela H. Izakowitz,
Assistant Public Defender, Bartow,
for Appellant.

Bill McCollum, Attorney General,
Tallahassee, and Katherine Coombs
Cline, Assistant Attorney General,
Tampa, for Appellee.

KELLY, Judge.

Richard Curtis Thompson was convicted of aggravated stalking and
sentenced to sixty months' incarceration, a portion of which was suspended, followed by

five years' probation. On appeal, Thompson argues that his sentence is illegal because it exceeds the statutory maximum for a third-degree felony. The State correctly concedes that the trial court erred in imposing a split sentence of probation and incarceration which exceeds the five-year statutory maximum sentence for third-degree felonies. See Fla. R. Crim. P. 3.701(d)(12); Smith v. State, 584 So. 2d 154 (Fla. 2d DCA 1991).

Accordingly, we affirm Thompson's conviction, reverse his sentence, and remand for resentencing.

FULMER and VILLANTI, JJ., Concur.