

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

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

CARSON DAVIS,	)	
	)	
Appellant,	)	
	)	
v.	)	Case No. 2D09-1297
	)	
STATE OF FLORIDA,	)	
	)	
Appellee.	)	
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Opinion filed June 11, 2010.

Appeal from the Circuit Court for  
Hillsborough County; Wayne S.  
Timmerman, Judge.

James Marion Moorman, Public Defender,  
and Bruce P. Taylor, Assistant Public  
Defender, Bartow, for Appellant.

Bill McCollum, Attorney General,  
Tallahassee, and Donna S. Koch,  
Assistant Attorney General, Tampa, for  
Appellee.

PER CURIAM.

Carson Davis appeals the order revoking his probation and the resulting sentence. We affirm the order revoking probation without discussion. The sentence imposed upon the revocation of probation was a probationary split sentence of 45.9 months' imprisonment followed by 16 months' probation. Mr. Davis was convicted of

aggravated assault, a third-degree felony. See § 784.021, Fla. Stat. (2007). His maximum lawful sentence could not exceed 60 months. See §§ 775.082(3)(d), 948.06(3), Fla. Stat. (2007). The State concedes that the combined sentence exceeds the lawful maximum, but the parties disagree on the proper calculation of credit for the period of probation that has already been served. Accordingly, we reverse the sentence and remand this case to the trial court to impose a term of probation following the 45.9-month term of imprisonment that does not exceed the lawful maximum sentence.

Affirmed in part, reversed in part, and remanded.

ALTENBERND, WHATLEY, and WALLACE, JJ., Concur.