

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

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

KEVIN DENNISON, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 STATE OF FLORIDA, )  
 )  
 Appellee. )  
 \_\_\_\_\_ )

CASE NO. 2D01-4123

Opinion filed December 5, 2001.

Appeal pursuant to Fla. R. App. P.  
9.141(b)(2) from the Circuit Court  
for Hillsborough County;  
Jack Espinosa, Jr., Judge.

DAVIS, Judge.

Kevin Dennison challenges the order of the trial court denying his motion to correct illegal sentence filed pursuant to Florida Rule of Criminal Procedure 3.800(a). We reverse the order of the trial court and remand for resentencing.

In 1993 Dennison pleaded guilty to two counts of attempted capital sexual battery, a first-degree felony, and to one count of a lewd and lascivious act upon a child, a

second-degree felony. Dennison was originally sentenced concurrently on all counts to fifteen years' prison suspended after ten years with the balance to be served on probation. In 1999 Dennison violated his probation and was sentenced to twenty years' prison concurrent on all counts. On the written sentences, the trial court did not check the box awarding Dennison credit for all time served in prison on each count prior to resentencing. In his rule 3.800(a) motion, Dennison alleged that his sentences are illegal because they exceed the suspended portions of the sentences. This claim is cognizable in a rule 3.800(a) motion to correct illegal sentence. See Williams v. State, 780 So. 2d 244 (Fla. 2d DCA 2001).

Dennison was sentenced on each count to a true split sentence. See Poore v. State, 531 So. 2d 161 (Fla. 1988). When a defendant violates the probationary portion of a true split sentence, the maximum amount of incarceration the trial court can legally impose is the full original sentence of incarceration with credit for time served. See Williams, 780 So. 2d 244; Crews v. State, 779 So. 2d 492 (Fla. 2d DCA 2000). Thus, in the present case, the most the trial court could have sentenced Dennison to was fifteen years in prison concurrent on each count with credit for time served in prison and jail. We also note that Dennison's twenty-year sentence for a lewd and lascivious act is in excess of the statutory maximum for a second-degree felony. Accordingly, we reverse the order of the trial court and remand with instructions to the trial court to resentence Dennison to no more than fifteen years' prison on each count with credit for time served.

Reversed and remanded with instructions.

ALTENBERND, A.C.J., and NORTHCUTT, J., Concur.