

Third District Court of Appeal

State of Florida

Opinion filed June 11, 2014.
Not final until disposition of timely filed motion for rehearing.

No. 3D12-2980
Lower Tribunal Nos. 11-253, 11-18880, & 11-25177

Laurinston Bailey,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Victoria S. Sigler, Judge.

Carlos J. Martinez, Public Defender, and James Moody, Assistant Public Defender, for appellant.

Pamela Jo Bondi, Attorney General, and Magaly Rodriguez, Assistant Attorney General, for appellee.

Before LAGOA, SALTER, and SCALES, JJ.

LAGOA, J.

Laurinston Bailey (“Bailey”) appeals from an order revoking his probation. While Bailey raises three issues on appeal, we address only the third issue raised by Bailey and reverse on that point.

Bailey was charged with thirteen counts in case number 11-25177. On March 23, 2012, he plead guilty to the charges, and the trial court placed him on probation for counts 1, 2, 3, 5, 6, 7, and 9. The State subsequently filed affidavits of violation of probation, and after a hearing on October 5, 2012, the trial court revoked Bailey's probation in case number 11-25177 as to all the counts, 1 through 13. As the State properly concedes, because Bailey was never placed on probation as to counts 4, 8, 10, 11, 12, and 13, it was error to revoke probation on those counts.

Accordingly, we reverse the trial court's order revoking Bailey's probation only to the extent the trial court in case number 11-25177 improperly revoked probation on counts 4, 8, 10, 11, 12, and 13. We remand for the trial court to vacate the revocation of probation on those counts. Otherwise, the trial court's order is affirmed without prejudice to Bailey to raise any claims of ineffective assistance of counsel in an appropriate post-conviction proceeding. See Broche v. State, 701 So. 2d 446 (Fla. 3d DCA 1997).

Affirmed in part, reversed in part, and remanded.