

Third District Court of Appeal

State of Florida

Opinion filed August 21, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D16-2563
Lower Tribunal No. 08-19012

Bruno Moxey,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Jorge Rodriguez-Chomat, Judge.

Carlos J. Martinez, Public Defender, and Shannon Hemmendinger, Assistant Public Defender, for appellant.

Ashley Moody, Attorney General, and Linda S. Katz, Assistant Attorney General, for appellee.

Before EMAS, C.J., and SCALES and LOBREE, JJ.

PER CURIAM.

We find no fundamental error in and affirm the trial court's order of revocation of probation and sentence for the defendant's failure to live and remain at liberty without violating any law by committing the offense of possession of a controlled substance with the intent to sell. The defendant was on notice of this alleged new law violation incorporated by reference in the affidavit of violation of probation. *See Quijano v. State*, 270 So. 3d 549 (Fla. 2d DCA 2019) (erroneous citation to violation of wrong condition of probation was not fundamental error where defendant had notice of conduct alleged to violate his probation, his ability to prepare defense was not prejudiced, and State offered sufficient evidence to prove that he was guilty of alleged conduct). However, as the State concedes, the written order of revocation improperly recites two reasons for revocation. Only one reason was proven and pronounced orally by the court. The written order must be corrected on remand to remove robbery by sudden snatching as a basis for the revocation of probation.

Affirmed and remanded.