

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

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
JULY TERM, A.D. 2001

RAFAEL PEREZ,

\*\*

Appellant,

\*\*

vs.

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CASE NO. 3D01-1970

THE STATE OF FLORIDA,

\*\*

LOWER

Appellee.

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TRIBUNAL NO. CFM-00-12

Opinion filed November 7, 2001.

An Appeal from the Circuit Court for Monroe County, Ruth  
Becker, Judge.

Bennett H. Brummer, Public Defender and Howard K. Blumberg,  
Assistant Public Defender, for appellant.

Robert A. Butterworth, Attorney General and Steven R.  
Berger, Assistant Attorney General, for appellee.

Before SCHWARTZ, C.J., and FLETCHER and SORONDO, JJ.

PER CURIAM.

As the state agrees, the six month concurrent sentence imposed  
upon the defendant's violation of his probation for misdemeanor  
D.U.I. is vacated because the violation proceedings were begun more  
than the one year misdemeanor term limit after the probation was  
imposed. See State v. Boyd, 717 So. 2d 524 (Fla. 1998), review

dismissed, 719 So. 2d 286 (Fla. 1998); *Francois v. State*, 695 So. 2d 695 (Fla. 1997); *State v. Hall*, 641 So. 2d 403 (Fla. 1994); *Amaya v. State*, 653 So. 2d 1112 (Fla. 3d DCA 1995). There is no error, however, in the revocation of Perez's probation for the third degree felony of habitual driving with a suspended license or the twenty-two month sentence imposed for that offense. That order and sentence are therefore affirmed.

Affirmed in part, vacated in part.