

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JANUARY TERM, A.D. 2004

JUAN JOSE VALDES,	**	
Appellant,	**	CASE NO. 3D02-3050
vs.	**	LOWER
THE STATE OF FLORIDA,	**	TRIBUNAL NO. 95-24031
Appellee.	**	

Opinion filed March 17, 2004.

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

Bennett H. Brummer, Public Defender, and Robert Godfrey,
Assistant Public Defender, for appellant.

Charles J. Crist, Jr., Attorney General, and Fredericka Sands,
Assistant Attorney General, for appellee.

Before LEVY and RAMIREZ, JJ., and HARRIS, CHARLES M., Senior Judge.

PER CURIAM.

The issue in this case is whether a comment made by the judge
at the time of defendant's conviction for violation of probation
indicates that the judge incorrectly believed that defendant had

the burden to prove that he did not violate probation or merely expressed the notion that defendant had a "burden" to comply with the terms of his probation. In its brief, the State concedes that without clarification the record warrants a reversal. Because of the ambiguity in the record, we reverse for a new violation hearing.

REVERSED AND REMANDED for a new violation of probation hearing.