

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D18-3859

GARY P. LEDSOME,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Bay County.
Brantley S. Clark, Jr., Judge.

June 12, 2019

BILBREY, J.

Gary P. Ledsome appeals the revocation of his probation on multiple grounds. As one of the bases of revocation is not supported by competent and substantial evidence, we reverse and remand.

Ledsome was alleged to have violated several conditions of probation, including the failure to report to his probation officer on May 1, 2018, as required. At the revocation hearing, the probation officer testified Ledsome was given until the 31st of that month to report, but other evidence adduced at the hearing on the affidavit of probation established Ledsome was arrested on the 31st. Thus, the violation for failure to report on May 1st is not established in the record by competent, substantial evidence. While other

violations were established, the trial court did not indicate whether it would revoke probation and impose the same sentence absent a violation for failure to report to the probation officer, and therefore, we must remand this cause to the trial court. See *Washington v. State*, 215 So. 3d 202 (Fla. 1st DCA 2017).

Further, the written order of revocation does not conform to the trial court's oral pronouncements, the latter of which controls. See *Justice v. State*, 674 So. 2d 123 (Fla. 1996). While the written order finds violations of conditions 2, 10, and 15, the trial court did not orally find such violations. The written order does not refer to a violation of condition 1 (failure to report) nor multiple violations of condition 5 (new law violations), despite the trial court's oral pronouncement at the hearing below that Ledsome had substantially and willfully violated these conditions. A corrected written order is therefore required.

Accordingly, the cause is REVERSED and REMANDED for further proceedings.

RAY and JAY, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Andy Thomas, Public Defender, and Joel Arnold, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Tabitha Herrera, Assistant Attorney General, Tallahassee, for Appellee.