

Third District Court of Appeal

State of Florida, January Term, A.D. 2009

Opinion filed March 11, 2009.

Not final until disposition of timely filed motion for rehearing.

No. 3D08-1108

Lower Tribunal No. 06-750

Martin Simon,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Monroe County, Mark H. Jones,
Judge.

Carlos J. Martinez, Public Defender, and Beth C. Weitzner, Assistant Public
Defender, for appellant.

Bill McCollum, Attorney General, and Linda S. Katz, Assistant Attorney
General, for appellee.

Before COPE and LAGOA, JJ., and SCHWARTZ, Senior Judge.

Confession of Error

PER CURIAM.

This is an appeal of an order revoking the probation of defendant-appellant Martin Simon. The State concedes that at the hearing below, the defendant admitted to a violation of conditions one and thirteen, and the oral pronouncement in this case found a violation of conditions one and thirteen only. The State acknowledges that the revocation order erroneously includes a violation of two other conditions, conditions five and ten, as a basis for revoking probation. Based on the State's concession, we reverse the revocation order in part and remand with directions to delete the reference to conditions five and ten. See Williams v. State, 764 So. 2d 757, 758 (Fla. 2d DCA 2000) ("A written order of revocation must conform with the trial court's oral pronouncement."). The defendant need not be present.

Affirmed in part, reversed in part, and remanded for correction of order.