

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED

TERRY L. POTTS,

Appellant,

v.

Case No. 5D13-308

STATE OF FLORIDA,

Appellee.

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Opinion filed February 28, 2014.

Appeal from the Circuit Court,  
for Citrus County,  
Richard A. Howard, Judge.

James S. Purdy, Public Defender,  
and Kevin Holtz, Assistant Public  
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,  
Tallahassee, and Kaylee D. Tatman,  
Assistant Attorney General, Daytona  
Beach, for Appellee.

WALLIS, J.

Appellant appeals the lower court's revocation of his probation and suspended sentence. At sentencing, the lower court suspended Appellant's eighteen-month prison sentence on the condition that he complete two years' probation. Later, the lower court improperly amended Appellant's probation by adding the requirement that he successfully complete a drug treatment program and subsequently revoked his suspended sentence

for failure to complete the program. The probation condition requiring drug treatment was not imposed in the original sentence. The State concedes error because Appellant's due process rights were violated. He did not receive a properly noticed hearing regarding the added condition of probation. § 948.06, Fla. Stat. (2012); Clark v. State, 579 So. 2d 109 (Fla. 1991).

We reverse the revocation of probation and remand with instructions to reinstate Appellant to the term of probation and conditions originally ordered.

REVERSED and REMANDED with INSTRUCTIONS.

PALMER and COHEN, JJ., concur.