

FIFTH DISTRICT COURT OF APPEAL OF FLORIDA

Frances Annette Gonzalez v. State of Florida

Gonzalez · No. 5D2024-2204 · Decided April 11, 2025

SUMMARY

The Fifth District Court of Appeal affirmed the revocation of Frances Annette Gonzalez's probation following her admitted violation and failure to participate in drug court. The court held that the revocation was lawful but remanded for correction of a scrivener's error so that the revocation order accurately reflected the basis for the revocation.

CASE DETAILS

COURT	Fifth District Court of Appeal of Florida
WRITING FOR THE COURT	Makar, J.; Wallis, J.; Jay, J.
JURISDICTION	Fifth District Court of Appeal of Florida
DECIDED	April 11, 2025
DOCKET	5D2024-2204
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order revoking probation and imposing a prison sentence.
PRECEDENTIAL VALUE	Published opinion of the Fifth District Court of Appeal of Florida.
PARTIES	Frances Annette Gonzalez v. State of Florida

TOPICS

- probation
- criminal procedure
- appellate procedure
- preservation of error

PRACTICE AREAS

- criminal law
- criminal procedure
- probation and supervised release
- appellate procedure

QUESTIONS PRESENTED

- Whether the trial court lawfully revoked Gonzalez's probation based on her admitted probation violation and conceded failure to participate in drug treatment court, despite a written revocation order identifying additional violations that she had not admitted.

2. Whether the discrepancy between the trial court's oral pronouncement and the written revocation order required reversal of the probation revocation or only remand for correction of the order.

HOLDINGS

1. The probation revocation was lawful because the trial court revoked probation based on Gonzalez's admitted violation and her subsequent concession that she failed to participate in drug treatment court while her sentence was held in abeyance.
2. The discrepancy between the oral pronouncement and written revocation order was a scrivener's error requiring remand for correction, but it did not require reversal of the revocation.

KEY QUOTATIONS

“Normally, the erroneous citation to a probation condition is considered a scrivener’s error that has been found to be harmless.” (at 2)

FACTUAL BACKGROUND

Gonzalez pleaded no contest to three drug offenses in exchange for four years of drug-offender probation. She later admitted using a controlled substance in violation of probation, and the trial court held her sentence in abeyance while enrolling her in drug treatment court. After she failed to complete the program and acknowledged that she had been hiding from the warrant and the court, the trial court revoked probation and imposed a prison sentence. The written revocation order identified violations alleged in a later affidavit that Gonzalez had not admitted, although the appellate record showed that the court revoked probation based on her earlier admission and her conceded failure to participate in drug treatment court.

PROCEDURAL HISTORY

Gonzalez pleaded no contest to three drug offenses pursuant to an agreement providing for four years of drug-offender probation. After she admitted an initial probation violation, the trial court held her sentence in abeyance and placed her in drug treatment court. Following allegations of additional violations and her failure to complete drug treatment court, the trial court revoked probation and sentenced her to prison. Gonzalez appealed, arguing that the revocation order relied on violations she had not admitted and that the record did not support those findings.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The trial court shall enter an order that accurately reflects why it revoked Gonzalez's probation, including the violation supported by her admission and her conceded failure to participate in drug treatment court.

CASES CITED

- Connell v. State, 321 So. 3d 923, 924–25 (Fla. 5th DCA 2021)

- Brockhaus v. State, 325 So. 3d 122, 123 (Fla. 5th DCA 2020)
- Daniels v. State, 200 So. 3d 195, 195–96 (Fla. 5th DCA 2016)
- Romine v. State, 184 So. 3d 1172, 1173–74 (Fla. 2d DCA 2015)

OPINION

Frances Annette Gonzalez v. State of Florida

PER CURIAM.

FIFTH DISTRICT COURT OF APPEAL

STATE OF FLORIDA

_____ Case No. 5D2024-2204 LT Case No. 2018-CF-000282-A

FRANCES ANNETTE GONZALEZ,

Appellant, v.

STATE OF FLORIDA,

Appellee. _____ On appeal from the Circuit Court for Sumter County. Paul L. Militello, Judge. Matthew J. Metz, Public Defender, and Teresa D. Sutton, Assistant Public Defender, Daytona Beach, for Appellant. James Uthmeier, Attorney General, Tallahassee, and Whitney Brown Hartless, Assistant Attorney General, Daytona Beach, for Appellee. April 11, 2025 PER CURIAM. Appellant challenges the revocation of her probation. We affirm but remand for the trial court to enter a corrected order. The State charged Appellant with three drug offenses. She negotiated a plea agreement with the State. Under the agreement, she pleaded no contest to the charges in exchange for a four-year term of drug offender probation. Her probation officer later filed an affidavit alleging that she violated probation by using a controlled substance. Appellant entered a written admission and confirmed her violation in a sworn colloquy. The court announced that it would hold her sentence in abeyance and enroll her in drug treatment court. The court explained that failing to complete the program would result in sentences up to the statutory maximums for her crimes. It released her on the condition that she follow the drug court’s instructions and warned her not to be like other drug court enrollees who “flew the coop.” Appellant verified her understanding of these facts and signed a drug court participation agreement. Appellant’s probation officer filed an affidavit alleging several more violations. At the hearing that followed, Appellant did not admit these additional violations, and the court did not discuss them with her. Instead, the court focused on her earlier admission and failed drug court participation. Appellant freely conceded that she did not complete drug court. She also answered affirmatively when the court asked if she had been hiding from her warrant and the court. Defense counsel agreed that there was no valid explanation for Appellant’s lack of drug court participation. The court revoked Appellant’s probation and sentenced her to prison. It entered a judgment and sentence as well as a revocation order. The order indicates that Appellant committed the violations alleged in the second affidavit—that is, those she never admitted. Therefore, she argues that her

revocation is unlawful, reasoning that the court found violations that are not supported by an admission or evidence. She overstates the nature of the court’s purported error. The record is clear that the court revoked her probation because of her admitted violation and subsequent concession that she failed to participate in drug court while her sentence was in abeyance. Cf. *Connell v. State*, 321 So. 3d 923, 924–25 (Fla. 5th DCA 2021) (reversing revocation because the court did not allow the defendant a fair opportunity to challenge the State’s allegations—which the defendant disputed—that led to his termination from mental health court). Following this lawful revocation, the court committed a scrivener’s error by entering an order that did not match its oral pronouncement. This requires remand but not reversal. See *Brockhaus v. State*, 325 So. 3d 122, 2 123 (Fla. 5th DCA 2020) (“Normally, the erroneous citation to a probation condition is considered a scrivener’s error that has been found to be harmless.”); *Daniels v. State*, 200 So. 3d 195, 195–96 (Fla. 5th DCA 2016) (affirming revocation but remanding for the entry of an order that correctly identified the condition that the defendant admitted violating); *Romine v. State*, 184 So. 3d 1172, 1173–74 (Fla. 2d DCA 2015) (affirming revocation but remanding for the court to correct its revocation order where the State alleged—and the order found—multiple violations of a condition but the record reflected only one admission). On remand, the court shall enter an order that accurately reflects why it revoked Appellant’s probation. AFFIRMED; REMANDED with instructions. MAKAR, WALLIS, and JAY, JJ., concur. _____ Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.