

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

JANUARY TERM 2009

CHRISSANDRA COOK,

Appellant,

v.

Case No. 5D08-2386

STATE OF FLORIDA,

Appellee.

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Opinion filed February 20, 2009

Appeal from the Circuit Court
for Seminole County,
Marlene M. Alva, Judge.

James S. Purdy, Public Defender, and
Edward J. Weiss, Assistant Public Defender,
Daytona Beach, for Appellant.

Bill McCollum, Attorney General, Tallahassee,
and L. Charlene Matthews, Assistant Attorney
General, Daytona Beach, for Appellee.

SAWAYA, J.

Chrissandra Cook appeals the order revoking her probation. She readily admits the trial court correctly found that she violated the conditions of her probation by failing to report to her probation officer, failing to complete an anti-theft/impulse control class, and failing to perform required community service hours. However, the trial court also found that she willfully and substantially violated her probation by failing to pay the previously determined amount of restitution. The problem with that finding is that there

was no evidence presented at the revocation hearing that she had the ability to pay the restitution. Therefore, we reverse as to that finding and remand to the trial court to enter a corrected revocation order that does not reference the failure to pay restitution. The remainder of the revocation order is affirmed, including the court's conclusion that Cook violated her probation by failing to comply with the reporting, class, and community service requirements. See Rogan v. State, 934 So. 2d 593 (Fla. 5th DCA 2006).

AFFIRMED in part; REVERSED in part.

ORFINGER and LAWSON, JJ., concur.