

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D2023-0161

ROY E. WELCH,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Suwannee County.
David W. Fina, Judge.

October 9, 2024

PER CURIAM.

Appellant Roy Welch appeals the revocation of his probation and resulting sentence. He asserts that the trial court erred when it denied his motion to correct sentencing errors. He advances two arguments for reversal. First, he claims that the trial court's written order does not provide credit for time served in prison prior to resentencing. Second, he argues that the written order is inconsistent with the court's oral pronouncement and should be corrected as to the last count. We write to address the first issue and affirm on the second without further discussion.

"Upon a violation of probation and resentencing, an accused is entitled to prison credit for all time served on the charge prior to resentencing." *Nix v. State*, 941 So. 2d 568, 569 (Fla. 1st DCA

2006). Here, Appellant was previously sentenced to prison and then released on probation. The written sentencing order includes a paragraph for the trial court to indicate the time served in jail between the date of arrest for the violation of probation and the date of resentencing, followed by a direction to the Department of Corrections to compute and apply the appropriate credit for the time he previously served in prison along with the original jail time credit. However, the trial court failed to select this paragraph when completing the final order. We remand for the trial court to correct the sentencing order to provide prison credit. We note that this correction does not require the presence of Appellant. *See Jordan v. State*, 143 So. 3d 335, 339 (Fla. 2014) (noting that “resentencing a defendant in his absence will be harmless where it only involves a ministerial act”).

AFFIRMED in part, REVERSED and REMANDED in part.

OSTERHAUS, C.J., and M.K. THOMAS and LONG, JJ., concur.

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

Jessica J. Yeary, Public Defender, and Joel Arnold, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Amanda Afeazue Uwaibi, Assistant Attorney General, Tallahassee, for Appellee.