

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

LLOYD MARK TOWNSEND,

APPELLATE CASE NO: 2018-AP-000030-A-O
LOWER COURT CASE NO: 2015-CT-2214-A-W

Appellant,

vs.

STATE OF FLORIDA,

Appellee.

Appeal from the County Court
for Orange County, Florida,
Andrew L. Cameron, County Court Judge

Robert Wesley, Public Defender and
Sarah Jordan, Assistant Public Defender,
For Appellant

Aramis D. Ayala, State Attorney and
Kenneth Nunnelley, Assistant State Attorney,
For Appellee

Before LEBLANC, SHEA, and BLACKWELL, J.J.

Appellant contends that the lower court committed fundamental error by not conducting an inquiry pursuant to *Faretta v. California*, 422 U.S. 806 (1975) before permitting him to proceed *pro se* at a violation of probation hearing. We agree, reverse the revocation of probation, and remand the matter to the lower court. *See Segal v. State*, 920 So. 2d 1279 (Fla. 4th DCA 2006); *Birlkey v. State*, 220 So. 3d 431 (Fla. 4th DCA 2017); *Meredith v. State*, 107 So. 3d 1218 (Fla. 5th DCA 2013).

Additionally, we note that the underlying judgment and order of disposition entered on July 18, 2017 indicate that the violation of section 316.193, Florida Statutes, was a first-degree misdemeanor. However, the sentence, fine, and duration of ignition interlock and vehicle impoundment are all consistent with a third-degree felony violation of 316.193. The record on appeal does not indicate whether the underlying offense was Appellant's third or fourth conviction of a violation of 316.193. The lower court shall address this matter on remand and enter any appropriate orders.

REVERSED AND REMANDED.

DONE AND ORDERED in Chambers, at Orlando, Orange County, Florida, on this

____ day of July, 2019.

BOB LEBLANC
Presiding Circuit Judge

SHEA and BLACKWELL, J.J., concur.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to **the Honorable Andrew L. Cameron**, 425 North Orange Avenue, Orlando, Florida 32801; to **Kenneth Nunnelley**, Assistant State Attorney, 415 N. Orange Ave., Suite 200, Orlando, FL 32801; and to **Sarah Jordan**, 435 North Orange Avenue, Suite 400, Orlando, Florida 32801, this ____ day of July, 2019.

Judicial Assistant