

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

BARBARA LYNNE
MCDOWELL,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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

CASE NO. 1D16-3227

Opinion filed March 7, 2017.

An appeal from the Circuit Court for Nassau County.
Robert M. Foster, Judge.

William Mallory Kent, Jacksonville, for Appellant.

Pamela Jo Bondi, Attorney General and Anne C. Conley, Assistant Attorney
General, Tallahassee, for Appellee.

PER CURIAM.

Appellant challenges her fifteen-year prison sentence for DUI manslaughter.
She argues that the trial court committed fundamental error in suggesting that her

sentence may have been different had she cooperated and admitted guilt at an earlier stage of the case. The State appropriately concedes that Appellant is entitled to relief. Accordingly, we VACATE the sentence and REMAND with instructions for Appellant to be resentenced before a different judge. See Dumas v. State, 134 So. 3d 1048, 1048 (Fla. 1st DCA 2013); Ritter v. State, 885 So. 2d 413, 414-15 (Fla. 1st DCA 2004).

MAKAR and WINSOR, JJ., and BROWN, JOHN T., ASSOCIATE JUDGE,
CONCUR.