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Kitchens' too-long sentence overruled (10/25)

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Dispatch Capitol Bureau

JACKSON - Clay County Circuit Judge Jim Kitchens mistakenly imposed a 10-year sentence on a jail arsonist when the law only allows a maximum of three years, the state Court of Appeals ruled Tuesday.

The appellate court ordered Kitchens to resentence Leon White to a term consistent with state law.

White in 2003 pleaded guilty to setting fire to a jail-cell mattress while in the Clay County Jail for a separate disturbing-the-peace charge.

Kitchens erroneously sentenced White as if he had set fire to the jailhouse when the inmate was actually charged with the less-serious offense of igniting the bed, according to the Court of Appeals.

"Unfortunately, neither the district attorney nor White's attorney recognized this error and brought it to the circuit judge's attention," Court of Appeals Judge Kenny Griffis wrote for the court.

White must return to the Clay County Circuit Court to be resentenced to not more than three years in jail, the 10-member court said in its unanimous decision.

Kitchens had sentenced White to five years in prison and five years of post-release supervision. The judge thought White was indicted for second-degree arson, but he was actually charged with the third-degree offense, according to court records.

White won his appeal Tuesday representing himself without an attorney.

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