

ARKANSAS COURT OF APPEALSDIVISION IV
No. CACR11-988DAVID MICHAEL WEAVER
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered February 27, 2013

APPEAL FROM THE CRAWFORD
COUNTY CIRCUIT COURT
[No. CR-10-462-2]HONORABLE MICHAEL MEDLOCK,
JUDGE

AFFIRMED AS MODIFIED

LARRY D. VAUGHT, Judge

Appellant David Michael Weaver was convicted of rape of his daughter and was sentenced to twenty-five years' imprisonment in the Arkansas Department of Correction. In addition to his term of imprisonment, the trial court imposed the "Reduction of Sexual Victimization Program" (RSVP) as a condition of his incarceration. On appeal, Weaver argues that the RSVP requirement "was an illegal sentence" and that "the sentence should be reversed and a new order entered that does not include it." In response, the State concedes the error.

The judgment-and-commitment order must be modified to remove the requirement that Weaver participate in the RSVP as a condition of his incarceration. Requiring an inmate to participate in special programs such as RSVP as a condition of his or her incarceration is an illegal sentence. *White v. State*, 2012 Ark. 221, at 2-3, ___ S.W.3d ___, ___. And, an appellant may challenge an illegal sentence for the first time on appeal because it is an issue

of subject-matter jurisdiction. *Richie v. State*, 2009 Ark. 602, at 4, 357 S.W.3d 909, 912. Accordingly, we modify Weaver's judgment-and-commitment order to remove the illegal portion of his sentence.

Affirmed as modified.

HARRISON and WOOD, JJ., agree.

Weber & Burns, PLLC, by: *Jeffrey Weber*, for appellant.

Dustin McDaniel, Att'y Gen., by: *LeaAnn J. Adams*, Ass't Att'y Gen., for appellee.