

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

RICHARD DONALD
HUMISTON,

Appellant,

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

v.

CASE NO. 1D04-2414

STATE OF FLORIDA,

Appellee.

Opinion filed July 20, 2005.

An appeal from the Circuit Court for Duval County.
L. Page Haddock, Judge.

Nancy A. Daniels, Public Defender; Pamela Presnell Garvin, Assistant Public
Defender, Tallahassee, for Appellant.

Charlie Crist, Attorney General; Philip W. Edwards, Assistant Attorney General,
Tallahassee, for Appellee.

PER CURIAM.

AFFIRMED. See Saunders v. State, 863 So. 2d 458, 459 (Fla. 1st DCA 2004)
 (“Apprendi v. New Jersey, 530 U.S. 466, 120 S.Ct. 2348, 147 L.Ed.2d 435 (2000),
 does not prohibit the trial court’s finding that appellant qualified as an habitual felony

offender. See, e.g., Jones v. State, 791 So.2d 580 (Fla. 1st DCA 2001).”); see also Frumenti v. State, 885 So. 2d 924, 925 (Fla. 5th DCA 2004) (holding a sentence under section 775.084, Florida Statutes, the Habitual Felony Offender statute, is not illegal because “Blakely merely applied Apprendi v. New Jersey”); McBride v. State, 884 So. 2d 476, 478 (Fla. 4th DCA 2004) (holding Blakely v. Washington, --- U.S. ---, 124 S. Ct. 2531 (2004), “does not entitle a defendant to have a jury determine whether he has the requisite predicate convictions for a habitual felony offender sentence”).

ALLEN, WOLF, and BENTON, JJ., CONCUR.