

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

TORI Q. LEE,

Appellant,

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

v.

CASE NOS. 1D04-5213 and 1D04-5215

STATE OF FLORIDA,

Appellee.

Opinion filed December 30, 2005.

An appeal from the Circuit Court for Alachua County.
Honorable Peter K. Sieg, Judge.

Nancy A. Daniels, Public Defender; A. Victoria Wiggins, Assistant Public
Defender, Tallahassee, for Appellant.

Charlie Crist, Attorney General; Trisha Meggs Pate, Assistant Attorney General,
Office of the Attorney General, Tallahassee, for Appellee.

PER CURIAM.

These consolidated appeals involve appellant's criminal conviction for aggravated battery on a pregnant woman, No. 04-5213, and the revocation of appellant's probation because of this crime, No. 04-5215. We affirm the revocation of probation without discussion. However, appellant's challenge to the legality of his sentence has merit and we reverse as to that claim.

Appellant was convicted of aggravated battery on a pregnant woman and sentenced to 15 years as a prison releasee reoffender and as a habitual felony offender. As the State concedes, sentencing appellant to concurrent 15-year sentences as both a habitual felony offender *and* prison releasee reoffender, when only one criminal act has occurred, violates the Prison Releasee Reoffender Act. See Grant v. State, 770 So. 2d 655, 659 (Fla. 2000); Lewis v. State, 819 So. 2d 1009, 1010 (Fla. 1st DCA 2002).

Accordingly, we reverse and remand with directions to strike the portion of appellant's sentence reflecting that he was adjudicated and sentenced as a habitual felony offender. Id.; Walls v. State, 765 So. 2d 733, 734 (Fla. 1st DCA 2000). Appellant's 15-year sentence issued pursuant to the Prison Releasee Reoffender Act remains in effect and unchanged by this decision.

AFFIRMED in part; REVERSED in part and REMANDED with directions.

WEBSTER, BROWNING AND POLSTON, JJ., CONCUR.