

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

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

PERRY GARDNER MARVIN,

Appellant,

v.

CASE NO. 1D04-77

STATE OF FLORIDA,

Appellee.

Opinion filed July 29, 2005.

An appeal from Circuit Court for Bay County.
Michael C. Overstreet, Judge.

Nancy A. Daniels, Public Defender, and Archie F. Gardner, Jr., Assistant Public
Defender, Tallahassee, for Appellant.

Charlie Crist, Attorney General, A. Mireille Fall and Thomas D. Winokur, Assistant
Attorneys General, Tallahassee, for Appellee.

PER CURIAM.

The appellant in this direct criminal appeal challenges his conviction and
sentence for felony driving while license suspended or revoked, in violation of section
322.34(2)(c), Florida Statutes. Because at least one of the predicate convictions for

his current conviction of felony driving while license suspended or revoked was under a prior version of section 322.34(2)(c), Florida Statutes, this predicate conviction should not have been relied upon in imposing judgment and sentence in the present case. Thompson v. State, 887 So. 2d 1260 (Fla. 2004); Huss v. State, 771 So. 2d 591 (Fla. 1st DCA 2000). Accordingly, as the state concedes, the appellant's judgment and sentence for felony driving while license suspended or revoked must be, and are hereby, reversed.

ALLEN, LEWIS and HAWKES, JJ., CONCUR.