

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2005*

**JULIUS UNDERHILL,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D02-3091

[December 7, 2005]

***REVISED OPINION***

PER CURIAM.

On the court's own motion we withdraw our previously filed opinion in this case and, based on the Supreme Court of Florida's decision in *State v. Richardson*, 30 Fla. L. Weekly S616 (Fla. Sept. 8, 2005), find that appellant's argument that the trial court erred in sentencing him as a habitual felony offender is without merit. We therefore affirm his conviction and sentence.

*Affirmed.*

WARNER, POLEN and HAZOURI, JJ., concur.

\* \* \*

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Joel T. Lazarus, Judge; L.T. Case No. 00-16910 CF10A.

Carey Haughwout, Public Defender, and David John McPherrin, Assistant Public Defender, West Palm Beach, for appellant.

Charles J. Crist, Jr., Attorney General, Tallahassee, Donna M. Hoffmann and Claudine M. LaFrance, Assistant Attorneys General, West Palm Beach, for appellee.

***Not final until disposition of timely filed motion for rehearing.***