

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

TOMMY WILLIS,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D04-1420

[November 16, 2005]

PER CURIAM.

We reverse appellant's habitual offender sentence, because the state did not offer into evidence any proof of appellant's prior convictions or of the date of his release, evidence essential to the imposition of habitual offender status. *See Osborne v. State*, 820 So. 2d 1046 (Fla. 4th DCA 2002). We reject the state's argument that this issue was not preserved on appeal. The issue was raised in a motion to correct an illegal sentence pursuant to Florida Rule of Criminal Procedure 3.800(b)(2), just as it was in *Osborne*. *Id.* On remand the trial court may again consider whether the habitual offender sentence should be applied to appellant. *Id.*

We affirm as to the remaining issues raised.

GUNTHER, WARNER and HAZOURI, JJ., concur.

* * *

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Sheldon Schapiro, Judge; L.T. Case No. 02-4466 CF10A.

Carey Haughwout, Public Defender, and Ian Seldin, Assistant Public Defender, West Palm Beach, for appellant.

Charles J. Crist, Jr., Attorney General, Tallahassee, and Georgina Jimenez-Orosa, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.