

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2009

ERIC ACOSTA a/k/a **RUIZ ACOSTA** a/k/a **JOSE RODRIGUEZ,**
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D04-4307

[May 13, 2009]

ON REMAND FROM THE SUPREME COURT OF FLORIDA

PER CURIAM.

We reconsider on remand our opinion in *Acosta v. State*, 956 So. 2d 1235 (Fla. 4th DCA 2007), which was quashed by the Florida Supreme Court following its decision in *Acosta v. State*, 34 Fla. L. Weekly S293 (Fla. Mar. 19, 2009). As ordered by the supreme court, we apply its decision in *Yisrael v. State*, 993 So. 2d 952 (Fla. 2008), to the facts of this case.

In *Yisrael*, the supreme court disapproved of this Court's holding in *Yisrael v. State*, 938 So. 2d 546 (Fla. 4th DCA 2006), which was the case relied upon by this Court in holding that the Department of Correction's letter, alone, was sufficient evidence to sentence Acosta as a prison releasee reoffender. *See Acosta*, 956 So. 2d at 1235. Given the supreme court's reasoning in *Yisrael*, we now reverse Acosta's sentence as a PRR because a DOC letter, alone, is insufficient to support sentencing as a PRR. *See Yisrael*, 993 So. 2d at 961. We, therefore, remand for resentencing consistent with the supreme court's decision in *Yisrael*. Upon remand, the state may present additional evidence to prove that the defendant qualifies for prison releasee reoffender sentencing. *See State v. Collins*, 985 So. 2d 985, 990 (Fla. 2008).

Reversed and Remanded.

WARNER, HAZOURI and LEVINE, JJ., concur.

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Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Jorge Labarga, Judge; L.T. Case Nos. 02-10201 CFA02, 02-14603 CFA02 & 02-14604 CFA02.

Carey Haughwout, Public Defender, and Susan D. Cline, Assistant Public Defender, West Palm Beach, for appellant.

Bill McCollum, Attorney General, Tallahassee, and Don M. Rogers, Assistant Attorney General, West Palm Beach, for appellee.