

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2007

JEFFREY S. MINCEY,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D07-1412

[September 12, 2007]

PER CURIAM.

Jeffrey S. Mincey appeals from the summary denial of his motion to correct illegal sentence. He argues that he was improperly designated as a habitual felony offender because his prior convictions used for such designation did not qualify as sequential convictions as they were all entered on the same day. *See Bover v. State*, 797 So. 2d 1246, 1250 (Fla.2001) (“[A]lthough the sentencing for separate convictions arising out of unrelated crimes can take place on the same day, the sentences cannot be part of same sentencing proceeding” in order to be considered “sequential” for purposes of habitualization) (citation omitted); *Walker v. State*, 842 So. 2d 969 (Fla. 4th DCA 2003); *Wainer v. State*, 798 So. 2d 885, 886 (Fla. 4th DCA 2001).

We reverse the summary denial of Mincey’s motion and remand for re-sentencing. We note the state’s reference to a 1989 “sentence” of probation, *see State v. Richardson*, 915 So. 2d 86 (Fla.2005), but see no supporting documents associated with that predicate. On remand, the state may again seek sentencing as a habitual felony offender, subject to evidence of satisfactory predicate convictions. *See Rich v. State*, 814 So. 2d 1207, 1208 (Fla. 4th DCA 2002); *Cameron v. State*, 807 So. 2d 746, 747 (Fla. 4th DCA 2002); *Wainer*, 798 So. 2d at 885.

SHAHOOD, C.J., POLEN and KLEIN, JJ., concur.

* * *

Appeal of order denying rule 3.800(a) motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Ana I. Gardiner, Judge; L.T. Case No. 00-3495 CF10A.

Jeffrey S. Mincey, Madison, pro se.

Bill McCollum, Attorney General, Tallahassee, and Katherine Y. McIntire, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing