

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*January Term 2007*

**MARCUS PARRISH,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D07-160

[March 28, 2007]

PER CURIAM.

We affirm the circuit court's denial of appellant's rule 3.800(a) motion to correct illegal sentence. Appellant was convicted of one count of sale of cocaine and one count of possession of cocaine with intent to sell and was sentenced as a habitual felony offender. In his rule 3.800(a) motion, he argues that the HFO sentence imposed by the court violates *Apprendi v. New Jersey*, 530 U.S. 466 (2000), and *Blakely v. Washington*, 542 U.S. 296 (2004). We have previously held that *Apprendi* and *Blakely* do not apply to recidivism statutes such as our HFO statute, section 775.084, Florida Statutes. *McBride v. State*, 884 So. 2d 476 (Fla. 4th DCA 2004) and cases cited. In addition, even if *Apprendi* and *Blakely* did apply, the error in not having a jury make the finding that appellant is a habitual felony offender would be harmless. *Galindez v. State*, 32 Fla. L. Weekly S89 (Fla. Feb. 15, 2007).

*Affirmed.*

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

\* \* \*

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Jeffrey R. Levenson, Judge; L.T. Case No. 01-1457CF10A.

Marcus Parrish, Crawford, pro se.

No appearance required for appellee.

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