

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2008*

**RICHARD BRYANT,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D08-2824

[October 1, 2008]

PER CURIAM.

Richard Bryant (Defendant) appeals from an order summarily denying his motion to correct illegal sentence, filed pursuant to rule 3.800(a), Florida Rules of Criminal Procedure, and the order denying his motion for rehearing. He challenged his sentencing designation as a violent career criminal (VCC) pursuant to section 775.084(1)(c), Florida Statutes (1997), for the offense of felony causing bodily injury, in violation of section 782.051(1), Florida Statutes (1997), asserting that the offense was not an enumerated felony for which VCC sentencing could be imposed. The motion was denied based on a state response which argued that the offense was a forcible felony as described in section 776.08. We agree and affirm.

*State v. Hearn*, 961 So.2d 211 (Fla. 2007), instructs that the only consideration in determining whether an offense is a forcible felony for purposes of VCC sentencing is the statutory elements of the offense. “If ‘the use or threat of physical force or violence against any individual’ is not a necessary element of the crime, ‘then the crime is not a forcible felony within the meaning of the final clause of section 776.08.’” *Id.* at 216 (quoting *Perkins v. State*, 576 So.2d 1310, 1313 (Fla.1991)).

The version of section 782.051(1) which was in effect at the time Defendant committed his offense reads as follows:

- (1) Any person who perpetrates or attempts to perpetrate any felony enumerated in s. 782.04(3) and **who commits, aids, or abets an act that causes bodily injury to another** commits a

felony of the first degree, punishable by imprisonment for a term of years not exceeding life, or as provided in s. 775.082, s. 775.083, or s. 775.084, which is an offense ranked in level nine of the sentencing guidelines. Victim injury points shall be scored under this subsection.

§ 782.051(1), Fla. Stat. (1997) (emphasis added).<sup>1</sup>

Because causing bodily injury is an element of the offense, we agree that it is a forcible felony for purposes of VCC sentencing.

*Affirmed.*

WARNER, POLEN and HAZOURI, 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 and Ilona M. Holmes, Judges; L.T. Case No. 97-23465 CF10A.

Richard Bryant, Century, pro se.

No appearance required for appellee.

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

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<sup>1</sup> This provision was titled “Felony causing bodily injury.” The provision was substantially amended, and was retitled “Attempted felony murder,” effective October 1, 1998. See Ch. 98-204, § 12, at 1969-70, Laws of Fla.