

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING  
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

NEGUSSE STALEY, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 STATE OF FLORIDA, )  
 )  
 Appellee. )  
 )  
 \_\_\_\_\_ )

Case No. 2D06-865

Opinion filed August 4, 2006.

Appeal pursuant to Fla. R. App. P.  
9.141(b)(2) from the Circuit Court for  
Pinellas County; Richard A. Luce,  
Judge.

PER CURIAM.

Negusse Staley challenges the postconviction court's denial of his motion to correct illegal sentence filed pursuant to Florida Rule of Criminal Procedure 3.800(a). We reverse and remand.

Staley was charged with home invasion robbery while carrying a deadly weapon in violation of sections 812.135 and 775.087, Florida Statutes (2000). The jury found Staley "guilty of home invasion robbery, as charged," and he was sentenced to

life imprisonment as a prison releasee reoffender. In his rule 3.800(a) motion, Staley claims his life sentence is illegal because the jury did not make a specific finding that he used a deadly weapon. Relying on State v. Hargrove, 694 So. 2d 729 (Fla. 1997), the postconviction court denied the motion, finding that the verdict form constituted a clear jury finding that Staley carried a deadly weapon during the commission of the offense.

The postconviction court's reliance on Hargrove is misplaced. See Harvey v. State, 865 So. 2d 518, 520 (Fla. 2d DCA 2003) ("Because the verdict form here did not reflect the jury's factual finding that the crime was committed with a firearm, the trial court could not enhance the degree of the crime."). We therefore reverse the postconviction court's order and remand for Staley's resentencing.

Reversed and remanded.

CASANUEVA, SALCINES, and WALLACE, JJ., Concur.