

# Third District Court of Appeal

State of Florida, July Term, A.D., 2011

Opinion filed September 21, 2011.

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No. 3D07-1885  
Lower Tribunal No. 03-13020

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**Randolph Williams,**  
Appellant,

vs.

**The State of Florida,**  
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Victoria S. Sigler, Judge.

Carlos J. Martinez, Public Defender, and Manuel Alvarez, Assistant Public Defender, for appellant.

Pamela Jo Bondi, Attorney General, and Heidi Milan Caballero, Assistant Attorney General, for appellee.

Before ROTHENBERG and LAGOVA, JJ., and SCHWARTZ, Senior Judge.

## CONFESSION OF ERROR

PER CURIAM.

Based upon the State's proper confession of error, we hold that the trial court erred in reclassifying defendant's trafficking conviction from a first-degree

felony to a life felony, pursuant to section 775.087(1), Florida Statutes (2003) (providing, in part, that felony must be reclassified to a higher degree when the defendant commits the offense with a firearm). As the State concedes, the record lacks the required evidence that the defendant had physical possession of a firearm during the commission of the offense. See Campbell v. State, 935 So. 2d 614, 617-18 (Fla. 3d DCA 2006); Green v. State, 18 So. 3d 656, 658 n.2, 659 n.4 (Fla. 2d DCA 2009); Postell v. State, 971 So. 2d 986, 988-89 & n.5 (Fla. 5th DCA 2008); Parker v. State, 906 So. 2d 1273 (Fla. 5th DCA 2005). Accordingly, we reverse and remand for the trial court to strike the firearm enhancement and to resentence the defendant for the first-degree felony offense of trafficking.

Reversed and remanded.