IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING AND DISPOSITION THEREOF IF FILED

CHARLES R. CHAPMAN,

Appellant,

v.

Case No. 5D22-156
LT Case No. 2005-CF-2186

STATE OF FLORIDA,

Appellee.

_____/

Opinion filed October 3, 2022

3.800 Appeal from the Circuit Court for Marion County,
Lisa Herndon, Judge.

Charles R. Chapman, Bonifay, pro se.

Ashley Moody, Attorney General, Tallahassee, Robin A. Compton and Pamela J. Koller, Assistant Attorneys General, Daytona Beach, for Appellee.

PER CURIAM.

Appellant appeals the denial of his Florida Rule of Criminal Procedure 3.800(a) motion, arguing, *inter alia*, that his Violent Career Criminal (VCC) sentence is illegal because his previous violation of probation, in case number 1991-CF-2132, is not a qualifying offense. The State makes no argument in opposition, asserting only that remand is required. We agree.

The violation of probation in case number 1991-CF-2132 is not an enumerated conviction pursuant to the VCC statute. *See* § 775.084(1)(d), Fla. Stat. (2006); *Butler v. State*, 93 So. 3d 328, 329–30 (Fla. 2d DCA 2011). Accordingly, on this record, we reverse the denial as it pertains to case number 1991-CF-2132 with instructions that the trial court either grant relief or attach portions of the record conclusively refuting Appellant's claim.

We conclude that Appellant's argument as to case number 1994-CF-483 is without merit and therefore affirm on that ground without further discussion.

AFFIRMED IN PART; REVERSED IN PART; and REMANDED.

WALLIS, EDWARDS and EISNAUGLE, JJ., concur.