

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

JANUARY TERM 2007

ROBERT MILLAN,

Appellant,

v.

Case No. 5D06-1303

STATE OF FLORIDA,

Appellee.

Opinion filed April 13, 2007

Appeal from the Circuit Court
for Orange County,
Jose R. Rodriguez, Judge.

James S. Purdy, Public Defender, and
Rebecca M. Becker and Nancy Ryan,
Assistant Public Defenders, Daytona
Beach, for Appellant.

Bill McCollum, Attorney General,
Tallahassee, and Allison Leigh Morris,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Appellant, a sexual offender who is also a sexual predator, challenges his conviction for failure to comply with statutory registration requirements. Because the State charged Appellant with violating a statute that does not apply to him, the conviction must be reversed.

The State filed an information charging Appellant with failure of a sexual offender to report a change in residence pursuant to subsections 943.0435(4) and 943.0435(9), Florida Statutes (2004). It is undisputed, however, that, although Appellant is a sexual offender, he is also a sexual predator. Because section 943.0435, by its express terms, “does not apply to a sexual offender who is also a sexual predator,” Appellant cannot be convicted of the crime with which he was charged, and the trial court erred when it denied Appellant’s motion for judgment of acquittal. § 943.0435(5), Fla. Stat. (2004).

REVERSED.

TORPY, LAWSON and EVANDER, JJ., concur.