

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

JULY TERM 2008

ERVIN T. JOHNSON,

Appellant,

v.

Case No. 5D08-1559

STATE OF FLORIDA,

Appellee.

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Opinion filed December 24, 2008

Appeal from the Circuit Court
for Orange County,
Lawrence Kirkwood, Judge.

James S. Purdy, Public Defender, and
Anne Moorman Reeves, Assistant Public
Defender, Daytona Beach, for Appellant.

Bill McCollum, Attorney General,
Tallahassee, and Douglas T. Squire,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

AFFIRMED. See Smith v. State, 920 So. 2d 744 (Fla. 5th DCA 2006) (holding civil commitment under Sexual Predator Act required finding that sexual offender was "likely" to reoffend, and therefore, sexual offender who was subject of civil commitment proceedings under Act, was not entitled to jury instruction requiring finding that he was

"highly likely" to reoffend); State v. Bryant, 901 So. 2d 381 (Fla. 3d DCA 2005) (holding that modified jury instruction, which required finding that sex offender was "highly likely" rather than "likely" to offend, improperly created higher standard of proof for state than provided by statute).

SAWAYA, ORFINGER and LAWSON, JJ., concur.