IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT JANUARY TERM 2010

JERMAINE YOUNG,

Appellant,

v. Case No. 5D08-4111

STATE OF FLORIDA,

Appellee.
_____/

Opinion filed June 18, 2010

Appeal from the Circuit Court
for Orange County,
Lisa T. Munyon, Judge.

James S. Purdy, Public Defender, and
Edward J. Weiss, 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.

Jermaine Young (defendant) appeals his sentences, arguing that the trial court erred in imposing consecutive Prison Releasee Re-Offender (PRR) sentences on his five aggravated assault convictions because all of the crimes occurred during the course of a single criminal episode. We find no error and affirm.

Because we agree with the well reasoned holding set forth by the trial court in its order denying the defendant's motion to correct sentencing error, we include it here and adopt it as our own. The trial court's order reads, in pertinent part, as follows:

ORDER DENYING MOTION TO CORRECT SENTENCING: ERROR

* * *

Through appellate counsel, defendant alleges that the trial court erred by imposing consecutive prison releasee reoffender (hereinafter, "PRR") sentences for counts two through six. In support, he cites *Boyd v. State,* 988 So. 2d 1242, 1244 (Fla. 2nd DCA 2008); *Gonzalez v. State,* 876 So. 2d 658, 661-662 (Fla. 3rd DCA 2004); *Williams v. State,* 804 So. 2d 572, 573 (Fla. 5th DCA 2002); and *Philmore v. State,* 760 So. 2d 239, 240 (Fla. 4th DCA 2000). The foundation upon which each of the cited cases is based and the precedential value are called into question by *Reeves v. State,* 957 So. 2d 625 (Fla. 2007).

A review of the cases cited reveals that each court ultimately reached the conclusion that PRR sentences could not be imposed consecutively when the offenses were part of the same criminal episode based upon *Hale v. State,* 630 So. 2d 521 (Fla. 1993) and its progeny. The most recent of the cases cited is *Boyd,* supra, in which the Second District, in *dicta*, noted the correctness of the trial court's ruling which removed a consecutive PRR designation, citing *Smith v. State,* 824 So. 2d 263, 264 (Fla 2d DCA 2002). The *Smith* court cited *Hale,* supra, *Smith v. State,* 800 So. 2d 703 (Fla. 5th DCA 2001)(citing *Hale,* among other cases), and *Philmore v. State,* 760 So. 2d 239 (Fla. 4th DCA 2000).

In *Gonzalez v. State,* 876 So. 2d 658, 661-662 (Fla. 3rd DCA 2004), the Third District concluded that a defendant could not be sentenced to consecutive PRR sentences arising from the same criminal episode, citing *Rodriguez v. State,* 835 So. 2d 1172, 1173 (Fla. 2nd DCA 2002) (citing *Smith,* 824 So. 2d at 264); *Robinson v. State,* 829 So. 2d 984, 985 (Fla. 1st DCA 2002) (citing *Hale,* supra; *Williams,* supra; and *Smith,* 800 So. 2d at 703-04, among others); *McIntyre v. State,* 757 So. 2d 1288 (Fla. 4th DCA 2000) (citing *Hale,* supra).

In *Williams v. State,* 804 So. 2d 572, 573 (Fla. 5th DCA 2002), the Fifth District came to a similar conclusion, citing *Smith v. State,* 773 So. 2d 1278 (citing *Hale,* supra; *Philmore,* supra; and *McIntyre,* supra) and *Durr v. State,* 773 So.2d 644 (Fla. 5th DCA 2000) (citing *Hale,* supra, and *Philmore,* supra).

Finally, in *Philmore v. State,* 760 So. 2d 239, 240 (Fla. 4th DCA 2000), the Fourth District found consecutive PRR sentences for crimes committed in a single criminal episode inappropriate, citing the state's concession on the point and *Hale,* supra. Each of the cases relied upon by the defendant to challenge the sentence imposed in counts two through six has its genesis in the *Hale* decision.

Subsequently, the Fifth District recognized in *Reeves v. State,* 920 So. 2d 724 (Fla. 5th DCA 2006) that the prison releasee reoffender act is not an enhancement statute, but rather, a minimum mandatory statute, and thus, the rule established in *Hale* had no application to the PRR statute. The Florida Supreme Court agreed in *Reeves v. State,* 957 So. 2d 625, 633 (Fla. 2007) finding that *Hale* had little bearing on the interpretation of the PRR statute. In finding that the trial court had the discretion to impose a criminal punishment code sentence consecutively to a PRR sentence for offenses arising from the same criminal episode, the Court stated,

"Paragraph (b) indicates that section 775.082(9) dictates a *minimum* sentence or sentencing floor, not a statutory maximum....Moreover, nothing in the PRR statute can be construed as restricting a trial judge's general discretion to impose sentences consecutively or concurrently."

Reeves at 630.

Based upon the Supreme Court's decision in *Reeves,* the cases cited by defendant, all of which rely upon *Hale* as their foundational authority, are called into question. Given the holding in *Reeves* and the stated intent of the PRR statute to punish eligible offenders to the fullest extent of the law, the court can find no reasonable interpretation of the PRR statute that would prohibit consecutive PRR sentences but permit the imposition of consecutive PRR and criminal punishment code sentences as approved in *Reeves.*

AFFIRMED.

PALMER, TORPY and COHEN, JJ., concur.