

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

JANUARY TERM 2010

ALPHONSO EDWARDS,

Appellant,

v.

Case No. 5D09-3805

STATE OF FLORIDA,

Appellee.

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Opinion filed April 1, 2010

3.800 Appeal from the Circuit Court
for Sumter County,
William H. Hallman, III, Judge.

Alphonso Edwards, Lowell, pro se.

Bill McCollum, Attorney General,
Tallahassee, and Mary G. Jolley,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Alphonso Edwards appeals the denial of his motion to correct sentence filed pursuant to Florida Rule of Criminal Procedure 3.800(a) regarding Sumter County Circuit Court case number 94-220. A recitation of the tortured procedural history of this matter, and its entanglement with Edwards's other convictions in Sumter County Circuit Court case number 96-309, would serve no useful purpose except to confuse the reader, as it has confused us. Suffice it to say that Edwards contends it was error to

classify him as an habitual offender for his conviction of possession of cocaine (count II) in case number 94-220. Edwards's convictions occurred prior to the enactment of the Criminal Appeal Reform Act of 1996 and the revisions to rule 3.800.

Edwards is correct that an offender cannot be classified as an habitual offender for the offense of possession of a controlled substance. See § 775.084(1)(a)(3), Fla. Stat. (1996). The court labeled this issue as successive, but it is not clear that Edwards has previously litigated this precise issue in case number 94-220. Accordingly, we remand this matter to the trial court to either attach portions of the record refuting Edwards's claim or strike the habitual offender classification as to the possession charge. We find no merit in Edwards's other claim of error.

AFFIRMED in part; REVERSED in part; and REMANDED.

GRIFFIN, ORFINGER and COHEN, JJ., concur.