

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

CLARENCE WILLIAMS,
Appellant,

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

v.

CASE NO. : 1D03-4662

STATE OF FLORIDA,

Appellee.
_____ /

Opinion filed May 19, 2005.

An appeal from the Circuit Court for Columbia County.
Paul S. Bryan, Judge.

Nancy A. Daniels, Public Defender and A. Victoria Wiggins, Assistant Public
Defender, Tallahassee, for Appellant.

Charles J. Crist, Jr., Attorney General and Anne C. Conley, Assistant Attorney
General, Tallahassee, for Appellee.

PER CURIAM.

Clarence Williams appeals his habitual offender sentence for battery on a
detainee, a third degree felony. See § 784.082(3), Fla. Stat. (2002); § 775.084(4)(a)3,
Fla. Stat. (2002). Williams was sentenced to seven years in prison followed by five

years of probation, which, as the state correctly concedes, exceeds the ten-year statutory maximum sentence for a third degree felony under the habitual offender statute. See Rodriguez v. State, 766 So. 2d 1147 (Fla. 3d DCA 2000); Townsend v. State, 604 So. 2d 885 (Fla. 2d DCA 1992). Accordingly, Williams' illegal sentence is reversed and the cause is remanded for resentencing. Williams need not be present for the resentencing.

REVERSED and REMANDED.

WOLF, C.J., VAN NORTWICK AND BROWNING, JJ., CONCUR.