

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

RICHARD WAYNE COOK,

Appellant,

v.

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

CASE NO. 1D05-2355

JAMES V. CROSBY, JR.,
SECRETARY, DEPARTMENT OF
CORRECTIONS,

Appellee.

Opinion filed November 7, 2005.

An appeal from the Circuit Court for Hamilton County.
John W. Peach, Judge.

Appellant, pro se.

Charlie Crist, Attorney General, and Anne C. Conley, Assistant Attorney General,
Tallahassee, for Appellee.

PER CURIAM.

Richard Cook filed a petition for writ of habeas corpus, contending that his convictions pursuant to a *nolo* plea for carrying a concealed weapon and improper

exhibition of a dangerous weapon are unlawful, because he was carrying a razor knife, or box cutter, which this court determined cannot be a dangerous weapon in Holley v. State, 877 So. 2d 893 (Fla. 1st DCA 2004).¹ The trial court denied the petition and we affirm. Cook has raised this issue in previous post-conviction motions; hence the petition was procedurally barred. See Frazier v. State, 898 So. 2d 1183 (Fla. 3d DCA 2005); Heilmann v. State, 832 So. 2d 834 (Fla. 5th DCA 2002).

AFFIRMED.

ERVIN, BARFIELD and VAN NORTWICK, JJ., CONCUR.

¹Although a razor knife/box cutter was not designed or constructed to cause death or great bodily harm, it can be a deadly weapon if the defendant uses, threatens to use, or intends to use it in a manner likely to cause death or great bodily harm. See Holley, 877 So. 2d at 896; M.L. v. State, 842 So. 2d 257 (Fla. 1st DCA 2003); State v. Fleming, 606 So. 2d 1229 (Fla. 1st DCA 1992).