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

ALANDER CRAPPS,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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

CASE NO. 1D06-2275

Opinion filed October 26, 2007.

An appeal from the Circuit Court for Leon County.
Kathleen F. Dekker, Judge.

James C. Banks of the Law Office of Banks & Morris, P.A., Tallahassee, for Appellant.

Bill McCollum, Attorney General, and Thomas D. Winokur, Assistant Attorney General, Tallahassee, for Appellee.

DAVIS, J.

Appellant, Alander Crapps, appeals his judgment and sentence and argues that the trial court improperly sentenced him as a prison releasee reoffender ("PRR") because, he contends, the offense of throwing a deadly missile into an occupied

vehicle, as proscribed in section 790.19, Florida Statutes (2005), is not a qualifying offense for PRR classification under section 775.082(9)(a)1.o., Florida Statutes (2005). We agree. See Paul v. State, 958 So. 2d 1135, 1136 (Fla. 4th DCA 2007) (holding that the appellant, who was convicted of shooting a deadly missile into a dwelling, did not qualify as a PRR); Hudson v. State, 800 So. 2d 627, 628-29 (Fla. 3d DCA 2001) (holding that the crime proscribed by section 790.19 is not a forcible felony because it includes shooting or throwing at unoccupied buildings and, thus, does not, by statutory definition, necessarily involve physical force or violence against an individual); see also State v. Hearns, 961 So. 2d 211, 216 (Fla. 2007) (reiterating that the only relevant consideration in determining whether an offense constitutes a forcible felony is the statutory elements of the offense and that if "'the use or threat of physical force or violence against any individual'" is not a necessary element of the offense, then the offense is not a forcible felony).

Accordingly, we REVERSE and REMAND for resentencing.

ALLEN and BENTON, JJ., CONCUR.