

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D18-2399

THERON SAPP,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Leon County.
James C. Hankinson, Judge.

April 22, 2019

PER CURIAM.

Theron Sapp was convicted in 2006 of aggravated battery on a law enforcement officer. Because the victim was an officer, the aggravated battery charge was a first-degree felony. § 784.07(2)(d), Fla. Stat. And because Sapp was a habitual felony offender, the trial court could sentence him “for life.” § 775.084(4)(a)1., Fla. Stat. The trial court sentenced Sapp to forty years with a thirty-year mandatory for being a prison releasee reoffender. *See* § 775.082(9)(a)3., Fla. Stat. Sapp filed a motion to correct illegal sentence arguing that, although he could be sentenced to life imprisonment as a habitual felony offender,

he could not be sentenced to forty years. Like the trial court, we disagree.*

The trial court “may sentence” a habitual felony offender convicted “of a life felony or a felony of the first degree, for life.” § 775.084(4)(a), Fla. Stat. As Sapp could have been sentenced to life imprisonment, he likewise could be sentenced to forty years imprisonment. *See Guy v. State*, 632 So. 2d 1085, 1086 (Fla. 5th DCA 1994) (interpreting a habitualization provision permitting a sentence “for life” and concluding that “the trial court in this case had the discretion to impose any sentence up to life imprisonment for appellant’s commission of the first degree felony”). Accordingly, we AFFIRM the order denying Sapp’s motion to correct illegal sentence.

MAKAR, WINOKUR, and M.K. THOMAS, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Theron Sapp, pro se, Appellant.

Ashley Moody, Attorney General, and Sharon Traxler, Assistant Attorney General, Tallahassee, for Appellee.

* We reject without further comment Sapp’s argument regarding the other ground raised in his motion.