

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2006

STERLING WATTS,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D02-4034

[November 29, 2006]

ON REMAND FROM THE SUPREME COURT

PER CURIAM.

In *State v. Watts*, 31 Fla. L. Weekly S640 (Fla. Oct. 5, 2006), the supreme court quashed our decision in *Watts v. State*, 912 So. 2d 17 (Fla. 4th DCA 2006), and remanded for reconsideration upon application of *State v. Richardson*, 915 So. 2d 86 (Fla. 2005).

In our prior opinion we reversed appellant's habitual offender sentence because he did not have the necessary prior sequential convictions, where one of the prior "convictions" was an offense for which he was placed on probation. We relied on *Richardson v. State*, 884 So. 2d 950 (Fla. 4th DCA 2003). However, the supreme court held in *State v. Richardson* that a conviction upon which the offender was placed on probation can constitute a "sentence" for purposes of habitual offender qualification, quashing our decision. 915 So. 2d at 89. Based upon the supreme court's holding, we now affirm appellant's habitual felony offender sentence. In all other respects, our prior opinion remains unchanged.

WARNER, POLEN and HAZOURI, JJ., CONCUR.

* * *

Appeal from the Circuit Court for the Seventeenth Judicial Circuit,
Broward County; James I. Cohn, Judge; L.T. Case No. 01-20633 CF10A.

Carey Haughwout, Public Defender, and David John McPherrin, Assistant Public Defender, West Palm Beach, for appellant.

Charles J. Crist, Jr., Attorney General, Tallahassee, and Laurel R. Wiley, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.