

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2009

MICHAEL P. DENLINGER,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D05-2475

[September 23, 2009]

ON REMAND FROM THE FLORIDA SUPREME COURT

PER CURIAM.

We reconsider on remand our opinion in *Delinger v. State*, 944 So. 2d 1072 (Fla. 4th DCA 2006),¹ which was quashed by the Florida Supreme Court following its decision in *Denlinger v. State*, 7 So. 3d 522, 523 (Fla. 2009). As ordered by the supreme court, we apply its decision in *Yisrael v. State*, 993 So. 2d 952 (Fla. 2008), to the facts of this case.

In *Yisrael*, the Florida Supreme Court disapproved of this Court's holding in *Yisrael v. State*, 938 So. 2d 546 (Fla. 4th DCA 2006), which was the case relied upon by this Court in holding that the Crime and Time Report alone was sufficient evidence of Denlinger's last release date to sentence him as a Prison Releasee Reoffender (PRR). § 775.082(9)(a)(1), Fla. Stat. (2005).

Given the supreme court's reasoning in *Yisrael*, we now reverse Denlinger's sentence as a PRR. For a Crime and Time Report to be admitted as a business record at a sentencing hearing, the State must supply the authentication required by sections 90.803(6) and 90.902(11), Florida Statutes, or it must submit the Crime and Time Report and a signed and sealed release-date letter as one combined record. *Yisrael*, 938 So. 2d at 958, 960. In this case, neither a business-record authentication nor a signed and sealed release-date letter was submitted.

¹In our prior opinion of 2006, we inadvertently misspelled Appellant Denlinger's name as "Delinger."

We, therefore, remand for resentencing consistent with the supreme court's decision in *Yisrael*. Upon remand, the State may present additional evidence to prove that the defendant qualifies for PRR sentencing. *See State v. Collins*, 985 So. 2d 985, 990 (Fla. 2008).

Reversed and Remanded.

POLEN, MAY and LEVINE, JJ., concur.

* * *

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, St. Lucie County; Gary L. Sweet, Judge; L.T. Case No. 562004CF000870A.

Carey Haughwout, Public Defender, and Marcy K. Allen, Assistant Public Defender, West Palm Beach, for appellant.

Bill McCollum, Attorney General, Tallahassee, and Monique E. L'Italien, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.