

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

SAMUEL L. NEWBY,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D05-3555

[October 7, 2009]

ON REMAND FROM THE SUPREME COURT

PER CURIAM.

We reconsider on remand our opinion in *Newby v. State*, 945 So. 2d 636 (Fla. 4th DCA 2006), which was quashed by the Florida Supreme Court following its decision in *Newby v. State*, 7 So. 3d 518 (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 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 Department of Corrections' certified letter alone was sufficient evidence to establish the defendant's release date under the Prison Releasee Reoffender statute. See *Newby*, 945 So. 2d at 637. Given the supreme court's reasoning in *Yisrael*, we now reverse Newby's sentence as a PRR because a DOR letter alone is insufficient to support sentencing as a PRR. See *Yisrael*, 93 So. 2d at 961. 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 prison releasee reoffender sentencing. See *State v. Collins*, 985 So. 2d 985, 990 (Fla. 2008).

Reversed and Remanded.

STEVENSON, TAYLOR and CIKLIN, JJ., concur.

* * *

Appeal from the Circuit Court for the Fifteenth Judicial Circuit; Jorge Labarga, Judge; L.T. Case No. 04CF010413A02.

Carey Haughwout, Public Defender, and Richard B. Greene, Assistant Public Defender, West Palm Beach, for appellant.

No brief filed for appellee.