

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2011

ABRAHAM BEN YISRAEL,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D10-1036

[May 4, 2011]

PER CURIAM.

Abraham Yisrael challenges the denial of his motion to correct illegal sentence pursuant to Florida Rule of Criminal Procedure 3.800(a). We reverse and remand for further review of one point.

Yisrael challenges the predicate offenses used to support his habitual offender sentence arguing that he was convicted of both on the same day, and therefore, the convictions are not sequential. *See, e.g., State v. Richardson*, 915 So. 2d 86 (Fla. 2005); *Beazley v. State*, 18 So. 3d 46 (Fla. 1st DCA 2009). Yisrael's previous motion did not raise this point. *See Yisrael v. State*, 993 So. 2d 952 (Fla. 2008). Further, the record furnished to this court neither addresses nor refutes this claim. Consequently, we reverse and remand for the trial court to address this claim and to either grant relief or attach documentation to demonstrate that Yisrael qualified for habitual offender sentencing. We affirm the trial court's denial of the remaining claims.

WARNER, DAMOORGIAN and LEVINE, JJ., concur.

* * *

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Michael L. Gates, Judge; L.T. Case No. 01-6729 CF10A.

Abraham Ben Yisrael, Okeechobee, pro se.

Pamela Jo Bondi, Attorney General, Tallahassee, and Myra J. Fried, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.