

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

DAVID HALL,)	
)	
Appellant,)	
)	
v.)	Case No. 2D01-5385
)	
STATE OF FLORIDA,)	
)	
Appellee.)	
_____)	

Opinion filed July 23, 2003.

Appeal from the Circuit Court for Pinellas
County; Richard Luce, Judge.

James Marion Moorman, Public Defender,
and Richard P. Albertine, Jr., Assistant
Public Defender, Bartow, for Appellant.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Richard M. Fishkin,
Assistant Attorney General, Tampa,
for Appellee.

FULMER, Judge.

David Hall appeals his conviction and sentence for attempted first-degree murder. We reject the arguments made by Hall concerning the sufficiency of the evidence and the imposition of discretionary court costs, but we agree that the trial court erred in classifying Hall's offense as a life felony.

Hall was sentenced to a minimum mandatory life sentence as a prison releasee reoffender, pursuant to section 775.082(9), Florida Statutes (2000). The trial court stated at sentencing that the offense carried a mandatory life sentence.

Hall argues on appeal that the offense should have been classified as a first-degree felony. Hall preserved this argument for review by filing a motion to correct sentence pursuant to Florida Rule of Criminal Procedure 3.800(b)(2). We agree that the trial court erred in sentencing Hall for a life felony.

Attempted first-degree murder is a first-degree felony. See §§ 782.04, 777.04(4)(b), Fla. Stat. (2000). The information charges that Hall committed the offense by stabbing the victim with a deadly weapon, but the verdict form does not reflect a jury finding that Hall used a deadly weapon in the commission of the offense. Therefore, it was error to reclassify the offense to a life felony for the use of a weapon pursuant to section 775.087(1)(a), Florida Statutes (2000). See State v. Tripp, 642 So. 2d 728 (Fla. 1994). Accordingly, we reverse and remand for the trial court to correct the judgment and resentence Hall for a first-degree felony.

Reversed and remanded.

WHATLEY and COVINGTON, JJ., Concur.