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

IN THE DISTRICT COURT OF APPEAL OF FLORIDA SECOND DISTRICT

ANNIE CHOCTAW, DOC #481592, Appellant, v. STATE OF FLORIDA,

Appellee.

Case No. 2D09-2000

Opinion filed July 2, 2010.

Appeal from the Circuit Court for Hillsborough County; Tom Barber, Judge.

James Marion Moorman, Public Defender, and Judith Ellis, Assistant Public Defender, Bartow, for Appellant.

Bill McCollum, Attorney General, Tallahassee, and Ronald Napolitano, Assistant Attorney General, Tampa, for Appellee.

KHOUZAM, Judge.

Annie Choctaw appeals her judgments and sentences for delivery of

cocaine and possession of cocaine in circuit court case number 09-CF-246, and

possession of cocaine and possession of drug paraphernalia in circuit court case

number 09-CF-247. Choctaw was sentenced as a habitual felony offender to

concurrent sentences of 16.2 months' imprisonment for delivery of cocaine and possession of cocaine in case number 09-CF-246. Choctaw correctly argues, and the State concedes, that the trial court erred in imposing a habitual felony offender sentence for the offense of possession of cocaine. <u>See § 775.084(1)(a)(3)</u>, Fla. Stat. (2008); <u>Bass v. State</u>, 894 So. 2d 303, 303 (Fla. 2d DCA 2005).

Accordingly, we reverse and remand for the trial court to strike Choctaw's designation as a habitual felony offender from her sentence for possession of cocaine in case number 09-CF-246. Choctaw's remaining judgments and sentences are otherwise affirmed.

Affirmed in part, reversed in part, and remanded with directions.

WHATLEY and KELLY, JJ., Concur.