

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
JULY TERM, A.D. 2001

STANLEY CORNET,	**	
Appellant,	**	
vs.	**	CASE NO. 3D01-1040
THE STATE OF FLORIDA,	**	LOWER
Appellee.	**	TRIBUNAL NO. 94-29721

Opinion filed August 22, 2001.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Miami-Dade County, Roberto M. Pineiro, Judge.

Stanley Cornet, in proper person.

Robert A. Butterworth, Attorney General, and Consuelo Maingot (Ft. Lauderdale), Assistant Attorney General, for appellee.

Before GREEN, SHEVIN and RAMIREZ, JJ.

PER CURIAM.

Pursuant to the state's proper confession of error, we reverse the order denying defendant's motion to correct illegal sentence. A crime committed subsequent to the one for

which defendant is being sentenced cannot serve as a qualifying felony for purposes of imposing a habitual offender sentence. Johnson v. State, 752 So. 2d 702 (Fla. 2d DCA 2000). Thus, defendant lacks the requisite predicate offenses to qualify as a habitual violent felony offender. Furthermore, the record does not disclose predicate offenses sufficient to qualify defendant as a habitual felony offender. § 775.084(5), Fla. Stat. (1993); Rhodes v. State, 704 So. 2d 1080 (Fla. 1st DCA 1997). Therefore, we vacate defendant's sentence in case number 94-29721, and remand for resentencing.

Order reversed; sentence vacated; cause remanded.