

NOT FINAL UNTIL TIME EXPIRES  
TO FILE REHEARING MOTION  
AND, IF FILED, DISPOSED OF.

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

DANIEL SMITH,

\*\*

Appellant,

\*\*

vs.

\*\*

CASE NO. 3D01-2283

THE STATE OF FLORIDA,

\*\*

LOWER

Appellee.

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TRIBUNAL NO. 94-42027

Opinion filed December 19, 2001.

An appeal under Fla. R. App. P. 9.141(b)(2) from the Circuit  
Court for Dade County, Lawrence A. Schwartz, Judge.

Daniel Smith, in proper person.

Robert A. Butterworth, Attorney General, and Linda S. Katz,  
Assistant Attorney General, for appellee.

Before COPE, GODERICH and SHEVIN, JJ.

PER CURIAM.

Daniel Smith appeals an order denying his motion to correct  
illegal sentence. In it he seeks to set aside his adjudication as  
a habitual violent felony offender ("HVFO") on the ground that he  
does not have a qualifying predicate felony. A motion under

Florida Rule of Criminal Procedure 3.800(a) can be used to raise this issue. Bover v. State, 26 Fla. L. Weekly S 652 (Fla. Oct. 4, 2001). On the merits, however, the response of the State demonstrates that defendant-appellant Smith does, in fact, qualify as an HVFO. We therefore reject the defendant's argument on this point.

Defendant's remaining points are without merit.

Affirmed.