

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JANUARY TERM A.D., 2004

ROBERTO SANCHEZ,

Appellant,

vs.

THE STATE OF FLORIDA,

Appellee.

**
**
** CASE NO. 3D02-2705
**
** LOWER
** TRIBUNAL NO. 99-5925
**

Opinion filed July 7, 2004.

An appeal from the Circuit Court for Miami-Dade County,
Maria Espinosa Dennis, Judge.

Bennett H. Brummer, Public Defender, and Harvey J. Sepler,
Assistant Public Defender, for appellant.

Charles J. Crist, Jr., Attorney General, and Erin Kinney,
Assistant Attorney General, for appellee.

Before SCHWARTZ, C.J., and GERSTEN and WELLS, JJ.

WELLS, Judge.

Roberto Sanchez appeals his convictions and sentences for
five counts of lewd acts on a child under the age of sixteen,
claiming that the charges against him were insufficiently narrow

to permit him to mount a defense. Sanchez also argues that the trial court improperly designated him a sexual predator.

Based on the State's proper confession of error, we vacate the trial court's order designating Sanchez as a sexual predator. Contrary to statutory requirements, no proof of a qualifying prior offense was introduced prior to designating Sanchez as a sexual predator. § 775.21(4) Fla. Stat. (2000).

We find no merit in Sanchez' argument that the trial court's refusal to require the State to narrow the time frame alleged in the information mandated dismissal of the charges against him. The record demonstrates neither an ability on the State's part to further narrow the time frame alleged nor the likelihood of any prejudice to Sanchez flowing from the inability to do so.

Accordingly, the defendant's convictions and sentences are affirmed; the defendant's designation as a sexual predator is stricken.