

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
JULY TERM, A.D. 2003

ANDREW HENRY MANN,	**	
Appellant,	**	
vs.	**	CASE NO. 3D03-194
THE STATE OF FLORIDA,	**	LOWER
Appellee.	**	TRIBUNAL NO. 97-24820

Opinion filed September 3, 2003.

An Appeal from the Circuit Court for Miami-Dade County,  
Peter R. Lopez, Judge.

Bennett H. Brummer, Public Defender, and Manuel Alvarez,  
Assistant Public Defender, for appellant.

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

Before GODERICH, GREEN, and RAMIREZ, JJ.

ON MOTION FOR CLARIFICATION

PER CURIAM.

Based on appellee State of Florida's motion for clarification  
and for withdrawal of mandate, we recall the mandate issued on May  
21, 2003, withdraw the opinion rendered the same day and substitute  
the following in its stead. The sentence is reversed due to the  
trial court's failure to justify the sentence of life imprisonment

as a violent career criminal. See Smith v. State, 842 So. 2d 1047 (Fla. 3d DCA 2003). The case is remanded to the trial court for re-sentencing by a different judge, pursuant to Wilson v. State, 845 So. 2d 142 (Fla. 2003) (the record must rebut any presumption of vindictiveness).

Reversed and remanded.