

# Third District Court of Appeal

State of Florida, January Term, A.D. 2009

Opinion filed June 17, 2009.

Not final until disposition of timely filed motion for rehearing.

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No. 3D05-685

Lower Tribunal No. 02-34653

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**James Russell Ward,**  
Appellant,

vs.

**The State of Florida,**  
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Jacqueline Hogan Scola, Judge.

Carlos J. Martinez, Public Defender, and Marti Rothenberg, Assistant Public Defender, for appellant.

Bill McCollum, Attorney General, and Michael E. Hantman and Paulette R. Taylor, Assistant Attorneys General, for appellee.

Before COPE and SHEPHERD, JJ., and SCHWARTZ, Senior Judge.

**ON REMAND FROM THE SUPREME COURT OF FLORIDA**

SHEPHERD, J.

We consider on remand our opinion in Ward v. State, 965 So. 2d 308 (Fla. 3d DCA 2007), which the Florida Supreme Court quashed following its decision in Ward v. State, 7 So. 3d 520 (Fla. 2009). As ordered by the supreme court, we apply its decision in Yisrael v. State, 993 So. 2d 952 (Fla. 2008) (Yisrael II), to the facts of this case.

In Yisrael II, the supreme court disapproved of the holding in Yisrael v. State, 938 So. 2d 546 (Fla. 4th DCA 2006), that a Department of Correction's letter alone was sufficient evidence to sentence Yisrael as a prison releasee reoffender. See Yisrael II, 993 So. 2d at 959. Given the supreme court's reasoning in Yisrael II, we now reverse Ward's sentence as a prison releasee reoffender because a Department of Correction's letter alone is insufficient to support sentencing Ward as a prison releasee reoffender. See id. at 961. We therefore remand for resentencing consistent with the supreme court's decision in Yisrael II.

Upon remand, the State may present additional evidence to prove that the defendant qualifies for prison releasee reoffender sentencing. See State v. Collins, 985 So. 2d 985, 990 (Fla. 2008).

Reversed and remanded.