

Third District Court of Appeal

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

Opinion filed October 21, 2009.

Not final until disposition of timely filed motion for rehearing.

No. 3D09-2433

Lower Tribunal No. 04-30262

Jorge Sueiro Hernandez,
Appellant,

vs.

The State of Florida,
Appellee.

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

Jorge Sueiro Hernandez, in proper person.

Bill McCollum, Attorney General, for appellee.

Before COPE, GERSTEN and SUAREZ, JJ.

COPE, J.

This is an appeal of an order denying a motion to correct illegal sentence under Florida Rule of Criminal Procedure 3.800(a). We affirm.

According to the motion, defendant-appellant Hernandez entered a plea to the offense of burglary of an unoccupied dwelling, and was sentenced to fifteen years as a Prison Releasee Reoffender (“PRR”). The crime date was October 8, 2004. The defendant contends that burglary of an unoccupied dwelling is not a qualifying offense for purposes of the PRR statute.

The trial court was entirely correct in denying the claim. The PRR statute was amended in 2001 so that burglary of a dwelling, whether occupied or unoccupied, is a qualifying offense. Ch. 2001-239, § 1, Laws of Fla.; Tumbling v. State, 965 So. 2d 354, 355 (Fla. 4th DCA 2007); Bradshaw v. State, 891 So. 2d 1184, 1184 n.1 (Fla. 2d DCA 2005). The statutory version applicable to this defendant is section 775.082(9)(a)1.2., Florida Statutes (2004).

Affirmed.