

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, 2003

JERRY DUCKSWORTH,

**

Appellant,

**

vs.

**

CASE NO. 3D01-2791

THE STATE OF FLORIDA,

**

LOWER

TRIBUNAL NO. 99-29232

Appellee.

**

Opinion filed January 22, 2003.

An Appeal from the Circuit Court for Dade County, Pedro Echarte, Judge.

John H. Lipinski, for appellant.

Charlie Crist, Attorney General, and Meredith L. Balo, Assistant Attorney General, for appellee.

Before SCHWARTZ, C.J., and COPE and LEVY, JJ.

PER CURIAM.

Jerry Ducksworth, Defendant below, appeals from a conviction

and sentence for the offense of robbery with a weapon. We affirm in part, and reverse in part.

In the instant case, the trial court sentenced the Defendant to life in prison as a Habitual Violent Felony Offender, and concurrent 30-year minimum mandatory sentences as a Prison Release Reoffender and as a three-time violent felony offender. According to the Florida Supreme Court in Grant v. State, 770 So. 2d 655, 659 (Fla. 2000), because Section 775.082, Florida Statutes, the Prison Release Reoffender Act ("the Act"), only authorizes the trial court to deviate from the Act's sentencing scheme to impose a greater sentence of incarceration, the trial court lacks the authority to impose an equal sentence under the habitual felony offender statute. See Grant, 770 So. 2d at 659; see also Barge v. State, 789 So. 2d 972 (Fla. 2001); Bloodworth v. State, 790 So. 2d 1032 (Fla. 2001). Here, while the life sentence imposed as a Habitual Violent Felony Offender is clearly appropriate under the Act and Grant, we conclude that the trial court erred in imposing both a 30-year sentence under the Prison Release Reoffender Act and a concurrent 30-year sentence as a three-time violent felony offender.

Accordingly, we reverse the sentencing order in part and strike the 30-year mandatory minimum sentence as a three-time violent felony offender. The remaining issues raised by the

Defendant on appeal are without merit.

Affirmed in part, reversed in part.