

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D2025-0961

OTIS JAMES SIMPSON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Leon County.
Stephen S. Everett, Judge.

August 26, 2026

PER CURIAM.

We affirm Appellant’s conviction and sentence and write only to correct a scrivener’s error on the written judgment and sentence. *See Ashley v. State*, 850 So. 2d 1265, 1268 n. 3 (Fla. 2003) (defining a scrivener’s error as a written clerical error that is not “the result of a judicial determination or error”). The written judgment and sentence classify Appellant as a habitual felony offender, even though the State did not seek that designation and the trial court did not announce it when orally pronouncing his adjudication and sentence. *See Bryant v. State*, 302 So. 3d 995, 1000 (Fla. 1st DCA 2020) (stating that the trial court’s oral pronouncement of the sentence controls over the written sentence). On remand, the trial court shall correct the scrivener’s error by striking the habitual felony offender designation from the written judgment and

sentence. Appellant need not be present for this ministerial correction. *See Gray v. State*, 370 So. 3d 711, 712 (Fla. 1st DCA 2023) (explaining that the defendant’s presence is not required on remand for the correction of a scrivener’s error because it is a ministerial act that requires no judicial discretion).

AFFIRMED and REMANDED with instructions.

LEWIS, M.K. THOMAS, and TREADWELL, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Jessica J. Yeary, Public Defender, and Megan Long, Assistant Public Defender, Tallahassee, for Appellant.

James Uthmeier, Attorney General, and Amanda A. Uwaibi, Assistant Attorney General, Tallahassee, for Appellee.