

FIFTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA

Case No. 5D2024-0070
LT Case No. 2022-302635-CFDB

ERESTER MARKQUE ASHFORD,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Volusia County.
Kathryn D. Weston, Judge.

Matthew J. Metz, Public Defender, and Natalie R. Gossett,
Assistant Public Defender, Daytona Beach, for Appellant.

James Uthmeier, Attorney General, Tallahassee, and Robin A.
Compton, Assistant Attorney General, Daytona Beach, for
Appellee.

March 7, 2025

SOUD, J.

Appellant Erester Markque Ashford was convicted of attempted carjacking, burglary of a conveyance, and assault (a lesser-included offense of the attempted carjacking charged in count III of the information). The trial court designated him a

prison releasee reoffender pursuant to section 775.082(9), Florida Statutes (2021), and sentenced him to fifteen years in the Florida state prison system. Ashford appeals his judgment and sentence arguing, *inter alia*, that based on the recent United States Supreme Court decision in *Erlinger v. United States*, 602 U.S. 821 (2024), his sentence is unconstitutional because a jury—not the trial judge—was required to decide whether Ashford met the statutory requirements of a prison releasee reoffender.

We affirm in all respects and reject Ashford’s arguments based on *Erlinger*. While we do not reach the merits of his arguments as to *Erlinger*’s impact, if any, upon existing Florida Statutes and caselaw,* even if, *arguendo*, any error occurred here, such an error would be harmless. See *Capra v. State*, 50 Fla. L. Weekly D332 (Fla. 5th DCA Feb. 7, 2025) (quoting *Britten v. State*, 181 So. 3d 1215, 1218 (Fla. 1st DCA 2015)).

AFFIRMED.

It is so ordered.

MACIVER and PRATT, JJ., concur.

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

* The Florida Supreme Court has accepted jurisdiction in *Maye v. State*, SC2023–1184, which presents substantially similar issue(s) resulting from *Erlinger*.