

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D2024-0105

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DAMIEN NASHAUN NELSON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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On appeal from the Circuit Court for Escambia County.  
Jennie Kinsey, Judge.

June 18, 2025

PER CURIAM.

The State charged Damien Nashaun Nelson with driving while having been designated a habitual traffic offender (HTO). Nelson moved to dismiss, arguing that the State could not charge that offense because his HTO designation relied on prior convictions to which he entered pleas without the representation of counsel. The court denied the motion. A jury found Nelson guilty as charged and the court sentenced him to a term of imprisonment. Nelson appeals the denial of his motion to dismiss. We affirm.\*

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\* We reject Nelson's argument regarding sufficiency of the evidence without further comment.

*Hlad v. State*, 585 So. 2d 928 (Fla. 1991), and *State v. Beach*, 592 So. 2d 237 (Fla. 1992), place limits on the State’s ability to use a criminal defendant’s prior uncounseled convictions to increase a subsequent charge. However, the Second District ruled that these cases do not apply to a defendant charged with driving while having been designated an HTO, because the offense was defined “not by reference to prior convictions, but to an administrative designation based upon such convictions.” *Patterson v. State*, 938 So. 2d 625, 630 n.4 (Fla. 2d DCA 2006). We agree.

We reject Nelson’s argument that *Patterson* is no longer good law based on *State v. Kelly*, 999 So. 2d 1029 (Fla. 2008). *Kelly* merely reaffirmed *Hlad* and *Beach* in light of the decision of the United States Supreme Court in *Nichols v. United States*, 511 U.S. 738 (1994). The rule of law set forth in *Patterson* remains sound, and controls here.

AFFIRMED.

LEWIS, BILBREY, and WINOKUR, JJ., concur.

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

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Jessica J. Yeary, Public Defender, and Tyler Kemper Payne, Assistant Public Defender, Tallahassee, for Appellant.

James Uthmeier, Attorney General, and Damaris Reynolds, Assistant Attorney General, Tallahassee, for Appellee.