

FIFTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA

Case No. 5D2024-0090
LT Case No. 2022-CF-665

RICHARD REX CAPRA,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Nassau County.
James Hunt Daniel, Judge.

Matthew J. Metz, Public Defender, and John M. Selden,
Assistant Public Defender, Daytona Beach, for Appellant.

John M. Guard, Acting Attorney General, and Daren L. Shippy,
Assistant Attorney General, Tallahassee, for Appellee.

February 7, 2025

PER CURIAM.

Appellant, Richard Rex Capra, appeals his judgment and sentence arguing, inter alia, that the United States Supreme Court decision in *Erlinger v. United States*, 602 U.S. 821 (2024), has overruled this court's decision in *Simmons v. State*, 332 So. 3d 1129 (Fla. 5th DCA 2022), and that his habitual violent felony offender ("HVFO") sentence is unconstitutional. We reject this argument

because even if the HVFO sentence was rendered in error, the error is harmless on this record. See *Britten v. State*, 181 So. 3d 1215, 1218 (Fla. 1st DCA 2015) (“It is well-settled that *Apprendi*^[1] and *Blakely*^[2] errors are subject to a harmless error analysis” (citing *Washington v. Recuenco*, 548 U.S. 212, 220–21 (2006))).

AFFIRMED.

EISNAUGLE, BOATWRIGHT, and KILBANE, JJ., concur.

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

¹ *Apprendi v. New Jersey*, 530 U.S. 466 (2000).

² *Blakely v. Washington*, 542 U.S. 296 (2004).