

Third District Court of Appeal

State of Florida

Opinion filed September 17, 2026.
Not final until disposition of timely filed motion for rehearing.

No. 3D22-1337
Lower Tribunal No. F20-14561

Byron Curry,
Appellant,

vs.

State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Mavel Ruiz and Laura Gonzalez-Marques, Judges.

Daniel J. Tibbitt, P.A., and Daniel James Tibbitt, for appellant.

James Uthmeier, Attorney General, and Lourdes Bibiana Fernandez, Assistant Attorney General, for appellee.

Before MILLER, LOBREE and GOODEN, JJ.

PER CURIAM.

Affirmed. See Sanchez v. State, 435 So. 3d 1211, 1212 (Fla. 3d DCA 2026) (“In examining the record before the trial court, any error in failing to submit the habitual felony offender factors to a jury amounts to, at most, harmless error beyond a reasonable doubt.”); Alvarado-Balmaceda v. State, 435 So. 3d 1169, 1171 (Fla. 3d DCA 2026) (“Thus, based on the record before us, we conclude that any error in failing to submit the habitual violent felony offender factors to a jury was harmless beyond a reasonable doubt, and affirm.”); Madison v. State, 433 So. 3d 514, 516 (Fla. 3d DCA 2026) (“An Erlinger error is harmless where the record demonstrates, beyond a reasonable doubt, that, had the enhancement issues been submitted to a jury, a rational jury would have found that the defendant qualified for an enhanced sentence under section 775.084. Indeed, if the record plainly and unequivocally establishes that the defendant qualifies for the enhancement, it is not necessary for the court to delve into the Erlinger constitutional issue, because any resulting error would be harmless beyond a reasonable doubt.”) (internal citation omitted).