

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D2024-2821

CHARLES MORGAN CARPENTER,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Franklin County.
Francis J. Allman, Jr., Judge.

August 26, 2026

PER CURIAM.

Following jury trial, the court convicted Charles Morgan Carpenter of burglary of a dwelling with a battery, criminal mischief, and petit theft. The court sentenced Carpenter to life imprisonment as a Prison Releasee Reoffender (PRR). We affirm the judgment and sentence, rejecting each of the arguments Carpenter raises on appeal. We write only to address Carpenter's claim that his designation as a PRR and resulting sentence were unconstitutional under *Apprendi v. New Jersey*, 530 U.S. 466 (2000), and its progeny.

After appealing the judgment and sentence, Carpenter filed a motion to correct sentencing error pursuant to Florida Rule of Appellate Procedure 3.800(b)(2), claiming in part that his designation as a PRR and resulting sentence violated the Sixth Amendment to the United States Constitution because the judge, rather than the jury, found the facts that supported PRR designation, namely, that his offenses occurred within three years after being released from a state correctional facility. *See* § 775.082(9)(a)1., Fla. Stat. The court denied the motion.

Carpenter claims that the trial court erred in denying his rule 3.800(b)(2) motion. We reject this argument because an *Apprendi* claim cannot be made by a motion under rule 3.800(b)(2). *Shinault v. State*, 51 Fla. L. Weekly D1390, 1391 (Fla. 1st DCA July 8, 2026) (finding that a “claim that a jury, not the judge, is required to make a particular finding beyond a reasonable doubt ‘alleges an error in the sentencing process—not an error in the sentencing order itself’” and therefore may not be raised by motion under rule 3.800(b) (citation omitted)). *See also Maye v. State*, 51 Fla. L. Weekly S116, 119 (Fla. May 14, 2026) (Francis, J., concurring) (footnote omitted) (finding that a claim that the PRR statute violates the Sixth Amendment “is, ultimately, a challenge to the *how*—the *procedure* required by the PRR statute—not a challenge to the *what*—the legality of [the] *sentence*.”) (emphases in original, footnote omitted).¹ Because Carpenter could not raise this issue by rule 3.800(b) motion, he was required to preserve it at trial. *See Jackson v. State*, 983 So.2d 562, 573 (Fla. 2008) (holding that errors in the sentencing process can only be preserved for review by contemporaneous objection, not by motion under rule 3.800(b)).² He failed to do so; therefore, we affirm.

¹ Even if we found that Carpenter could raise this issue by rule 3.800(b) motion, and even if we found that the failure to have a jury make the findings that supported PRR sentencing was error, we would conclude that the error was harmless. *Hicks v. State*, 422 So. 3d 607, 609 (Fla. 1st DCA 2025).

² Presuming that the appeal does not follow a guilty plea, we can reverse an unpreserved sentencing process error only if the error is fundamental. *Jackson*, 983 So. 2d at 569 (holding that an appellate court may consider an unpreserved claim that could not

AFFIRMED.

ROBERTS, WINOKUR, and NORDBY, 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 Danielle Jorden, Assistant Public Defender, Tallahassee, for Appellant.

James Uthmeier, Attorney General, and Michael Schaub, Assistant Attorney General, Tallahassee, for Appellee.

be raised by rule 3.800(b), “but only under the very narrow fundamental error standard.”). Here, Carpenter does not claim that the alleged error was fundamental. But even if he had, we would find the error not fundamental under the facts of this case. *See Jackson v. State*, 301 So. 3d 477, 480 (Fla. 1st DCA 2020) (“[I]f the error can properly be described as harmless, it is not fundamental.” (citing *Rutledge v. State*, 1 So. 3d 1122, 1133 (Fla. 1st DCA 2009))).