

SIXTH DISTRICT COURT OF APPEAL OF FLORIDA

Matthew Edward Zink v. State of Florida

No. 6D2024-1626, Sixth District Court of Appeal of Florida (March 6, 2026)

OPINION

Matthew Edward Zink v. State of Florida

PER CURIAM.

SIXTH DISTRICT COURT OF APPEAL

STATE OF FLORIDA

_____ Case No. 6D2024-1626 Lower Tribunal No. 2021-CF-000977 _____

MATTHEW EDWARD ZINK,

Appellant, v.

STATE OF FLORIDA,

Appellee. _____ Appeal from the Circuit Court for Collier County.

John McGowan, Judge. March 6, 2026 PER CURIAM. Matthew Edward Zink appeals the judgment and life sentence rendered on July 22, 2024, after a jury found him guilty of lewd and lascivious molestation with a victim less than 12 years of age. On appeal, he argues that the trial court erred in not allowing a witness to testify regarding alleged child hearsay statements, and that the trial court erred in sentencing him as a prison releasee reoffender (“PRR”) because the jury did not make any findings regarding his release date from prison. As to the trial court’s finding that the child hearsay statements were inadmissible, we affirm without further comment. Relying on *Erlinger v. United States*, 602 U.S. 821 (2024), Zink argues that his sentence, which included a designation as a prison releasee reoffender, is illegal because the trial court, rather than a jury, made the requisite finding concerning the date he was released from custody on his prior conviction. While we have rejected this argument in the past, even if accepted here, affirmance would still be required. See *Maye v. State*, 368 So. 3d 531 (Fla. 6th DCA 2023), review granted, No. SC2023-1184, 2024 WL 1796831 (Fla. Apr. 25, 2024). As we held in *Avalos v. State*, 419 So. 3d 299, 300 (Fla. 6th DCA 2025), this type of alleged error is subject to a harmless error analysis, and since the offense for which Zink was convicted of subjected him to a life sentence irrespective of any PRR designation, he is not serving an enhanced sentence. Accordingly, the error, if any, is harmless on this record beyond a reasonable doubt. See *Scott v. State*, 413 So. 3d 276, 278 (Fla. 5th DCA 2025) (“[B]ecause Scott is not serving an enhanced sentence in this case, the error, if any, committed by the trial court when it imposed Scott’s HFO sentences is harmless on this record beyond a reasonable doubt.”). Accordingly, we affirm. AFFIRMED. TRAYER, C.J., and STARGEL and NARDELLA, JJ., concur. Blair Allen, Public Defender, and Brett S. Chase,

Special Assistant Public Defender, Bartow, for Appellant. James Uthmeier, Attorney General, Tallahassee, and Jonathan P. Hurley, Senior Assistant Attorney General, Tampa, for Appellee.

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING
AND DISPOSITION THEREOF IF FILED

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