

FIRST DISTRICT COURT OF APPEAL OF FLORIDA

Jesse David Hicks v. State of Florida

No. 1D2024-1300 (Fla. 1st DCA Oct. 15, 2025) · No. 1D2024-1300 · Decided October 15, 2025

SUMMARY

The First District Court of Appeal of Florida affirmed Jesse David Hicks’s prison releasee reoffender sentence without deciding whether Erlinger v. United States requires a jury finding under Florida’s PRR statute. The court held that any alleged error was harmless because Hicks and his counsel acknowledged, and Department of Corrections records confirmed, that he was released from prison within three years of the current offenses. Judge Winokur concurred, discussing the relationship among Apprendi, Alleyne, Erlinger, and Florida Rule of Criminal Procedure 3.800, and expressing the view that Alleyne—not Erlinger—supports requiring a jury determination of the release-date fact.

CASE DETAILS

COURT	First District Court of Appeal of Florida
WRITING FOR THE COURT	Lewis, J.; Rowe, J.; Winokur, J.
JURISDICTION	Florida First District Court of Appeal
DECIDED	October 15, 2025
DOCKET	1D2024-1300
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a sentencing order imposing prison releasee reoffender sentencing; appellant argued that Erlinger v. United States required a jury determination of whether he was released from prison within three years of committing the current offenses and rendered the Florida PRR sentencing procedure unconstitutional.
STANDARD OF REVIEW	Harmless error beyond a reasonable doubt; the court examined whether the absence of a jury finding contributed to the sentence and whether the record demonstrated beyond a reasonable doubt that a rational jury would have made the same finding.
PRECEDENTIAL VALUE	published
PARTIES	Jesse David Hicks v. State of Florida

TOPICS

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QUESTIONS PRESENTED

1. Whether the failure to submit to a jury the question whether Hicks was released from prison within three years of committing the current offenses required reversal of his prison releasee reoffender sentence under *Erlinger v. United States*.
2. Whether any assumed sentencing error was harmless beyond a reasonable doubt.

HOLDINGS

1. Even assuming that *Erlinger* applies to Florida prison releasee reoffender sentencing and that the trial court erred by making the relevant finding rather than submitting it to a jury, the error was harmless because the record established beyond a reasonable doubt that no rational jury would have found that Hicks failed to qualify based on the timing of his release and current offenses.

KEY QUOTATIONS

“When considering harmless error when the claimed error is failure to have a jury finding made during sentencing, the issue is “whether the failure to have the jury make the . . . finding . . . contributed to the . . . sentence—in other words, whether the record demonstrates beyond a reasonable doubt that a rational jury would have found” the same thing.”

“Thus, the record demonstrates beyond a reasonable doubt that no rational jury would have determined that Appellant did not qualify for PRR sentencing based upon the timing of his release from prison on his past offenses and the commission of his current offenses.”

“An Apprendi claim, therefore, alleges an error in the sentencing process—not an error in the sentencing order itself.” (3)

“Alleyne, not Erlinger, provides the basis for this decision regarding PRR.” (6)

FACTUAL BACKGROUND

Hicks committed the current offenses within three years after being released from prison for prior offenses. Both Hicks and his counsel acknowledged this timing in the trial court, and Department of Corrections records confirmed it. The trial court imposed a prison releasee reoffender sentence based on that timing.

PROCEDURAL HISTORY

Hicks was sentenced by the Circuit Court for Holmes County as a prison releasee reoffender. He challenged the sentence on direct appeal and argued that *Erlinger* required jury findings concerning the timing of his release from prison. The First District affirmed without deciding *Erlinger*'s effect on Florida's PRR statute, holding that any assumed error was harmless beyond a reasonable doubt.

DISPOSITION

affirmed

CASES CITED

- Erlinger v. United States, 602 U.S. 821 (2024)
- State v. Fleming, 61 So. 3d 399 (Fla. 2011)
- Ashford v. State, 407 So. 3d 537, 537 (Fla. 5th DCA 2025)
- Galindez v. State, 955 So. 2d 517, 523 (Fla. 2007)
- Flournoy v. State, 415 So. 3d 806, 808 (Fla. 2d DCA 2025)
- Avalos v. State, 50 Fla. L. Weekly D1950a (Fla. 6th DCA Aug. 29, 2025)
- Jackson v. State, 410 So. 3d 4 (Fla. 4th DCA 2025)
- Wainwright v. State, 411 So. 3d 392 (Fla. 2025)
- Jackson v. State, 983 So. 2d 562, 574 (Fla. 2008)
- Apprendi v. New Jersey, 530 U.S. 466, 476 (2000)
- Alleyne v. United States, 570 U.S. 99, 103 (2013)
- Hughes v. State, 901 So. 2d 837, 841 (Fla. 2005)
- Plott v. State, 148 So. 3d 90 (Fla. 2014)
- Brooks v. State, 969 So. 2d 238, 242 n.7 (Fla. 2007)
- Maye v. State, 368 So. 3d 531 (Fla. 6th DCA 2023)
- Turnage v. State, 411 So. 3d 517 n.1 (Fla. 5th DCA 2025)
- Almendarez-Torres v. United States, 523 U.S. 224 (1998)
- Shepard v. United States, 544 U.S. 13, 26 (2005)
- Deschamps v. United States, 570 U.S. 254, 262 (2013)
- Harris v. United States, 536 U.S. 545, 550 (2002)
- Williams v. State, 143 So. 3d 423 (Fla. 1st DCA 2014)
- Lopez v. State, 135 So. 3d 539, 540 (Fla. 2d DCA 2014)
- Chapa v. State, 159 So. 3d 361, 362 (Fla. 4th DCA 2015)
- Ryland v. State, 360 So. 3d 784, 786 (Fla. 3d DCA 2023)
- Tobler v. State, 239 So. 3d 796 (Fla. 5th DCA 2018)