

FLORIDA THIRD DISTRICT COURT OF APPEAL

Courtney M. Moore v. The State of Florida

No. 3D23-1360 (Fla. 3d DCA Aug. 27, 2025) · No. No. 3D23-1360 · Decided August 27, 2025

SUMMARY

The Third District Court of Appeal of Florida affirmed Courtney M. Moore’s judgment, concluding that any potential error under *Erlinger v. United States* concerning jury determination of predicate offenses was harmless. The court relied on decisions finding harmless error where the defendant’s qualifying prior offenses and release dates were established in the record and not disputed.

CASE DETAILS

|                       |                                                                                                                                                                      |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Florida Third District Court of Appeal                                                                                                                               |
| WRITING FOR THE COURT | Per Curiam; Fernandez; Miller; Bokor                                                                                                                                 |
| JURISDICTION          | Florida Third District Court of Appeal                                                                                                                               |
| DECIDED               | August 27, 2025                                                                                                                                                      |
| DOCKET                | No. 3D23-1360                                                                                                                                                        |
| DISPOSITION           | affirmed                                                                                                                                                             |
| PROCEDURAL POSTURE    | Appeal from the Circuit Court for Miami-Dade County in a criminal case involving an alleged <i>Erlinger</i> , <i>Apprendi</i> , and <i>Blakely</i> sentencing error. |
| STANDARD OF REVIEW    | Harmless error review; constitutional sentencing error is subject to harmless-error analysis.                                                                        |
| PRECEDENTIAL VALUE    | Published                                                                                                                                                            |
| PARTIES               | Courtney M. Moore v. The State of Florida                                                                                                                            |

TOPICS

- sentencing
- harmless error
- criminal procedure
- appellate procedure
- constitutional law

PRACTICE AREAS

- criminal law
- criminal procedure
- appellate practice

QUESTIONS PRESENTED

1. Whether any alleged Erlinger-related error in determining predicate offenses for a sentencing enhancement was harmless.

## HOLDINGS

1. The alleged error was harmless, and the judgment was affirmed.

## KEY QUOTATIONS

“A claim of error under *Apprendi* and *Blakely* is subject to a harmless error analysis.” (at 2)

## FACTUAL BACKGROUND

The opinion contains no detailed recitation of Moore's underlying offenses or sentencing evidence. The appeal concerned an alleged error under *Erlinger v. United States* related to the determination of predicate offenses for a sentencing enhancement. The court affirmed based on authorities holding that such an error may be harmless when the record establishes the relevant predicate facts and the defendant does not contest them.

## PROCEDURAL HISTORY

Moore appealed a ruling of the Circuit Court for Miami-Dade County. The Third District Court of Appeal affirmed, relying on decisions applying harmless-error review to alleged Erlinger-related sentencing errors.

## DISPOSITION

affirmed

## CASES CITED

- *Flournoy v. State*, No. 2D2024-1491, 2025 WL 1819262, at \*2 (Fla. 2d DCA July 2, 2025)
- *Jackson v. State*, 410 So. 3d 4, 11 (Fla. 4th DCA 2025)
- *Plott v. State*, 148 So. 3d 90, 94 (Fla. 2014)
- *Erlinger v. United States*, 602 U.S. 821 (2024)
- *Apprendi v. New Jersey*, 530 U.S. 466 (2000)
- *Blakely v. Washington*, 542 U.S. 296 (2004)

## OPINION

### PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed August 27, 2025. Not final until disposition of timely filed motion for rehearing. \_\_\_\_\_ No. 3D23-1360 Lower Tribunal No. F22-6128 \_\_\_\_\_ Courtney M. Moore, Appellant, vs. The State of Florida, Appellee. An Appeal from the Circuit Court for Miami-Dade County, Robert T. Watson, Judges.

Carlos J. Martinez, Public Defender, and Nicholas A. Lynch, Assistant Public Defender, for appellant. James Uthmeier, Attorney General, and David Llanes, Assistant Attorney General, for appellee. Before FERNANDEZ, MILLER, and BOKOR, JJ. PER CURIAM. Affirmed. See *Flournoy v. State*, No. 2D2024-1491, 2025 WL 1819262, at \*2 (Fla. 2d DCA July 2, 2025) (holding potential Erlinger<sup>1</sup> error harmless because “[i]t [was] undisputed that the State read Flournoy’s prior record at the sentencing hearing and that Flournoy’s certified department of corrections packet, which detail[ed] all of his prior offenses and release dates, was filed below and [was] contained in [the] record”; “Flournoy did not dispute his prior record or release dates at sentencing”; “[a]nd defense counsel conceded at sentencing that Flournoy qualified for the PRR enhancement”); *Jackson v. State*, 410 So.

3d 4, 11 (Fla. 4th DCA 2025) (finding Erlinger error but concluding it “was harmless beyond a reasonable doubt” because the State “introduced evidence of the convictions, their dates, the dates of release from prison, and the fact that appellant had not been pardoned or any convictions set aside”; “[a]n examination of the qualifying felonies showed that none were convictions pursuant to section 893.13, Florida Statutes”; “[the] [a]ppellant did not object to any of the State’s evidence, did not introduce any contrary evidence, and made no argument against the application of the HFO enhancement”); see also *Plott v. State*, 148 So.

3d 90, 94 (Fla. 2014) (“A claim of error under Apprendi<sup>[2]</sup> and 1 *Erlinger v. United States*, 602 U.S. 821 (2024). 2 *Apprendi v. New Jersey*, 530 U.S. 466 (2000). 2 *Blakely*<sup>[3]</sup> is subject to a harmless error analysis.”); cf. *Erlinger*, 602 U.S. at 850 (Roberts, C.J., concurring) (“[V]iolations of th[e] right [to have a jury determine beyond a reasonable doubt whether a defendant’s predicate offenses were committed on different occasions under the ACCA] are subject to harmless error review.”).

3 *Blakely v. Washington*, 542 U.S. 296 (2004). 3