

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D2022-1005

JIMI P. McDONALD,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Walton County.
Kelvin C. Wells, Judge.

February 19, 2025

PER CURIAM.

Appellant was found guilty on eleven separate charges. He raises three issues on appeal, two of which we affirm without further comment. Appellant argues that the trial court fundamentally erred because two of his convictions violate his right against double jeopardy. We agree.

Under Count II, Appellant was charged and found guilty of burglary of a dwelling while armed with a firearm. Under Count III, he was charged with burglary of a dwelling with assault or battery. Appellant argues these convictions violate double jeopardy because the charges are based on a single uninvited entry. The State properly concedes error.

In *Williams v. State*, 927 So. 2d 145, 146 (Fla. 1st DCA 2006), this Court held that double jeopardy precluded the defendant's dual convictions and sentences where both burglary charges arose from a single entry of the dwelling and involved only one victim. *See also Burkhalter v. State*, 111 So. 3d 993 (Fla. 1st DCA 2013); *McKinney v. State*, 860 So. 2d 452, 452 (Fla. 1st DCA 2003) ("Because there was only one entry, the dual convictions and sentences on the two burglary charges cannot stand."). Accordingly, we reverse and remand to the trial court with instructions to vacate one of the burglary convictions and its corresponding sentence. Appellant's judgment and sentence is affirmed in all other regards.

AFFIRMED in part, REVERSED in part, and REMANDED.

KELSEY, M.K. THOMAS, 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 Pamela D. Presnell, Assistant Public Defender, Tallahassee, for Appellant.

James Uthmeier, Attorney General, and Daren L. Shippy, Assistant Attorney General, Tallahassee, for Appellee.