

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

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

J.S., A CHILD,

Appellant,

v.

Case No. 5D13-2989

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed April 25, 2014

Appeal from the Circuit Court
for Seminole County,
Nancy F. Alley, Judge.

James S. Purdy, Public Defender, and
Edward J. Weiss, Assistant Public
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Ann M. Phillips,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Appellant was charged with and adjudicated delinquent of three counts of possessing with intent to transmit or show obscene matter, in violation of section 847.011(1)(a) & (c), Florida Statutes (2012). He argues on appeal that his adjudication on all three counts violates double jeopardy because he only possessed one obscene video. The State counters that the three separate adjudications should be affirmed

because Appellant displayed the video on three occasions to three different individuals. We agree with Appellant. The possession of the obscene material was the unit of prosecution. Because possession is a continuing crime, only one adjudication can be sustained. *Lints v. State*, 643 So. 2d 689, 690 (Fla. 5th DCA 1994). This is not a case where Appellant possessed the same item on several occasions due to a break or interruption, such as in *Bailey v. State*, 637 So. 2d 333 (Fla. 2d DCA 1994).

REVERSED AND REMANDED.

TORPY, C.J., and EVANDER and COHEN, JJ., concur.