

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

GEORGE A. WESTERMAN, III,

Appellant,

v.

Case No. 5D14-3785

STATE OF FLORIDA,

Appellee.

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Opinion filed October 9, 2015

Appeal from the Circuit Court  
for Lake County,  
Mark A. Nacke, Judge.

James S. Purdy, Public Defender, and  
Robert E. Wildridge, Assistant Public  
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,  
Tallahassee, and Kristen L. Davenport,  
Assistant Attorney General, Daytona  
Beach, for Appellee.

PER CURIAM.

George A. Westerman, III (the defendant), appeals his judgment and sentences, asserting that his convictions for possession of methamphetamine<sup>1</sup> and trafficking in methamphetamine by possessing more than twenty-eight grams thereof<sup>2</sup> violated his

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<sup>1</sup> § 893.13(6)(a), Fla. Stat. (2014).

<sup>2</sup> § 893.135(1)(f), Fla. Stat. (2014).

double jeopardy rights. The State properly concedes error. See Gibbs v. State, 698 So. 2d 1206 (Fla. 1997) (holding that double jeopardy is violated if trafficking conviction is based upon possession of the same drugs which formed the basis of the simple possession conviction). See also Graves v. State, 95 So. 3d 1033 (Fla. 5th DCA 2012).

Accordingly, we reverse the defendant's judgment and sentence on the possession conviction, and remand for further proceedings consistent with this opinion.

REVERSED and REMANDED.

LAWSON, C.J., PALMER and BERGER, JJ., concur.