

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

JANUARY TERM 2005

JAMIE DENELL HAWKINS,

Appellant,

v.

Case No. 5D03-3658

STATE OF FLORIDA,

Appellee.

Opinion filed June 17, 2005

Appeal from the Circuit Court
for Brevard County,
Warren Burk, Judge.

James S. Purdy, Public Defender, and
Lyle Hitchens, Assistant Public Defender,
Daytona Beach, for Appellant.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Rebecca Roark Wall,
Assistant Attorney General, Daytona
Beach, for Appellee.

SAWAYA, C.J.

Jamie Hawkins and co-defendant Candy Lovell were tried together for the death of Lovell's daughter. Both defendants appealed and, represented by the same appellate counsel, raised identical issues: (1) that it was reversible error for the trial court to fail to read the definitions of excusable and justifiable homicide, and (2) that the convictions and sentences for both first-degree murder and aggravated manslaughter

violated double jeopardy. Lovell's appeal was disposed of by Lovell v. State, 882 So. 2d 1107 (Fla. 5th DCA 2004), in which this court agreed that her convictions and sentences for first-degree murder and aggravated manslaughter violated double jeopardy and accordingly vacated the aggravated manslaughter conviction and sentence. This court considered, too, Lovell's contention that it was fundamental error for the trial court not to read the definitions of excusable and justifiable homicide, but concluded it was without merit.

Therefore, in accordance with Lovell, we vacate Hawkins' conviction and sentence for aggravated manslaughter, but affirm the judgment and sentences in all other respects.

AFFIRMED in part; VACATED in part.

SHARP, W. and PLEUS, JJ., concur.