

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

VICTOR JONES,

Appellant,

v.

Case No. 5D13-30

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed March 7, 2014

Appeal from the Circuit Court
for Orange County,
Alan S. Apte, Judge.

James S. Purdy, Public Defender, and
Rose M. Levering, Assistant Public
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Rebecca Roark Wall,
Assistant Attorney General, Daytona
Beach, for Appellee.

GRIFFIN, J.

Appellant, Victor Jones ["Jones"], appeals his convictions for kidnapping with intent to commit bodily harm or terrorize and false imprisonment. On appeal, Jones argues for the first time that the dual convictions violate double jeopardy. Under the facts of this case, we agree that the act of restraining the victim during the attack was part of the same criminal episode out of which the kidnapping charge and conviction

arose. Accordingly, we vacate the conviction and sentence for false imprisonment. See *Fleming v. State*, 75 So. 3d 397 (Fla. 5th DCA 2011).

AFFIRMED in part, as to kidnapping charge; REVERSED and REMANDED to vacate false imprisonment charge.

PALMER and LAWSON, JJ., concur.