

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

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

RUSSELL THOMAS NEAL,

Appellant,

v.

CASE NO. 1D04-0167

STATE OF FLORIDA,

Appellee.

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Opinion filed September 19, 2005.

An appeal from an order of the Circuit Court for Okaloosa County.  
Thomas T. Remington, Judge.

M. Lilja Dandelake, of M. Lilja Dandelake, P.A., Tallahassee, for appellant.

Charlie Crist, Attorney General; Sheron Wells, Assistant Attorney General,  
Tallahassee, for appellee.

PER CURIAM.

Appellant raises a number of issues on appeal from his convictions and sentences for crimes arising out of a prostitution enterprise that he ran through an escort service. We find only one issue has merit.

The trial court reversibly erred by submitting to the jury for its consideration the charge against appellant involving unlawful sexual activity with a person sixteen or seventeen years of age (count VI) after having already granted appellant a judgment of acquittal as to that charge, thereby violating the prohibition against double jeopardy. This court's decision in Watson v. State, 410 So. 2d 207 (Fla. 1st DCA 1982), and the United States Supreme Court's recent decision in Smith v. Massachusetts, 125 S. Ct. 1129 (2005), which specifically discusses Watson, are controlling. We, therefore, vacate appellant's conviction and sentence as to count VI and remand with directions that he be discharged as to that count. In all other respects appellant's convictions and sentences are affirmed.

WOLF, DAVIS and BROWNING, JJ., CONCUR.