

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

ANTORRI DESHEA FARRIER,

Appellant,

v.

Case No. 5D13-3108

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed August 15, 2014

Appeal from the Circuit Court
for Orange County,
Anthony H. Johnson, Judge.

James S. Purdy, Public Defender, and
Michael S. Becker, Assistant Public
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Lori N. Hagan, Assistant
Attorney General, Daytona Beach, for
Appellee.

PER CURIAM.

Antorri Farrier timely appeals the judgment and sentences imposed for two counts of aggravated assault with a firearm, arguing those offenses were subsumed into the greater offense of burglary of a dwelling with an assault or battery with a firearm where the offenses occurred during the same incident and involved the same two victims. The State concedes that the multiple convictions violate the prohibition against double

jeopardy, as held in McGhee v. State, 133 So. 3d 1137, 1138-39 (Fla. 5th DCA 2014) (reversing conviction for aggravated assault with a firearm because it was subsumed into the greater offense of burglary of a dwelling with an assault or battery while armed with a firearm where offenses involved the same victim and occurred in the same incident) and Green v. State, 120 So. 3d 1276, 1278 (Fla. 1st DCA 2013) (“[B]ecause all of the elements of the crime of aggravated assault with a firearm are contained within the crime of burglary with an assault while armed with a firearm, convictions for both the burglary and the aggravated assault violate the prohibition against double jeopardy.”). We, therefore, reverse both convictions for aggravated assault with a firearm because they were subsumed into the greater offense of burglary of a dwelling with an assault or battery with a firearm. The remaining convictions are affirmed.

AFFIRMED in part; REVERSED in part; REMANDED.

SAWAYA, ORFINGER, and BERGER, JJ., concur.