

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

CODY LEE WHITE,

Appellant,

v.

Case No. 5D13-3989

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed August 1, 2014

Appeal from the Circuit
Court for Osceola County,
Jon B. Morgan, Judge.

James S. Purdy, Public Defender, and
Nancy Ryan, 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.

Cody Lee White (defendant) appeals his judgment and sentences, alleging that his dual convictions for burglary with a battery enhanced by use of a firearm (count two) and aggravated battery (count five) violate his constitutional protection against double jeopardy. The State concedes error as to this issue. Accordingly, we affirm the

defendant's judgment and sentences, except for those imposed on count five. We vacate the defendant's conviction and sentence as to that count.

AFFIRMED in part; REVERSED in part; and REMANDED.

SAWAYA, PALMER and LAMBERT, JJ., concur.