

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

JEFFREY B. NELLUMS,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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

CASE NO. 1D01-4947 and 1D01-4949
(Consolidated)

Opinion filed November 25, 2003.

An appeal from the Circuit Court for Leon County.
Judge Thomas H. Bateman, III.

Nancy A. Daniels, Public Defender, and Joel Arnold, Assistant Public Defender, Tallahassee,
for Appellant.

Charles J. Crist, Jr., Attorney General, and Alan R. Dakan, Assistant Attorney General,
Tallahassee, for Appellee.

PER CURIAM.

The appellant challenges the action of the trial court in resentencing him on November 14,
2001. We agree with the appellant that such resentencing is precluded by the constitutional
protections against double jeopardy. Spear v. State, 632 So. 2d 201 (Fla. 1st DCA 1994)

(“The appellant had begun serving the lawful sentence which the court originally imposed, and resentencing is not permitted merely because of a misapprehension as to the court’s sentencing prerogatives”).

We reverse the sentence imposed on November 14, 2001, and remand with instructions to the trial court to reinstate the original sentence imposed on November 5, 2001.

BARFIELD, WEBSTER and BROWNING, JJ., CONCUR.