

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

ADRIAN ANDREW,

Appellant,

v.

STATE OF FLORIDA ,

Appellee.

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

CASE NO. 1D02-4232

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Opinion filed December 31, 2003.

An appeal from the Circuit Court of Alachua County. Phyllis D. Kotey, Judge.

Nancy A. Daniels, Public Defender, and Phil Patterson, Assistant Public Defender,  
Tallahassee, for Appellant.

Charles J. Crist, Jr., Attorney General, and Bryan Jordan, Assistant Attorney General,  
Tallahassee, for Appellee.

PER CURIAM.

Appellant Adrian Andrew was improperly convicted of both resisting an officer without violence and resisting an officer with violence. The charges of resisting Officer Weiland with and without violence may only be seen as a continuous resistance to Officer Weiland's ongoing attempt to remove appellant from his car and arrest him.

Therefore, appellant may only be convicted of resisting with violence. See e.g. Wallace v.State, 724 So. 2d 1126 (Fla. 1998); Jones v. State, 764 So. 2d 659 (Fla. 1<sup>st</sup> DCA 2000). We VACATE the conviction and sentence for resisting without violence.

KAHN, WEBSTER and VAN NORTWICK, JJ., CONCUR.