

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

C.E.C., a child,  
Appellant,

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

v.

CASE NO.: 1D04-0928

STATE OF FLORIDA,  
Appellee.

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Opinion filed September 29, 2004.

An appeal from the Circuit Court for Escambia County.  
Edward P. Nickinson, III, Judge.

Nancy A. Daniels, Public Defender, and P. Douglas Brinkmeyer, Assistant Public  
Defender, Tallahassee, for Appellant.

Charles J. Crist, Jr., Attorney General, and Sherri T. Rollison, Assistant Attorney  
General, Tallahassee, for Appellee.

PER CURIAM.

C.E.C., a juvenile, appeals a final order of adjudication and disposition entered  
on December 18, 2003, by which appellant was adjudicated delinquent for the offenses  
of burglary, grand theft, dealing in stolen property (two counts), and violation of

probation. By this adjudication/disposition order, appellant was committed to the Department of Juvenile Justice for placement in a moderate risk facility. The grand theft offense involved the theft of the same items which were sold by appellant when he committed the two offenses of dealing in stolen property. Appellant argues that, as a result, an adjudication of delinquency for offense of grand theft as well as for the offenses of dealing in stolen property in the case at bar therefore constitute double jeopardy because all of the offenses were part of a single, continuous taking. Hall v. State, 826 So. 2d 268 (Fla. 2002); Kilmartin v. State, 848 So. 2d 1222 (Fla. 1<sup>st</sup> DCA 2003). Although this error was not raised below, it is cognizable on appeal as fundamental error. Kilmartin; Henderson v. State, 778 So. 2d 1046 (Fla. 1<sup>st</sup> DCA 2001). The state correctly concedes that under Hall and Kilmartin reversal is required. Accordingly, the adjudication of delinquency for grand theft is reversed and the cause is remanded for further proceedings consistent with this opinion, including the reconsideration of the disposition order.

REVERSED and REMANDED.

ALLEN, VAN NORTWICK AND BROWNING, JJ., CONCUR.