

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D17-26

NICHOLAS DWIGHT BYRAM,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Baker County.
James M. Colaw, Judge.

February 15, 2019

PER CURIAM.

Nicholas Byram (“Byram”) appeals his convictions and sentences on four grounds, only one of which merits discussion. He contends the trial court fundamentally erred by violating his double jeopardy rights through his separate convictions for resisting arrest with and without violence.

Byram was convicted on, among other charges, one count of resisting arrest with violence and one count of resisting arrest without violence. Because a defendant’s continuous resistance to an ongoing attempt to effect his arrest can be convicted only as one count of resisting arrest, we reverse. *See Johnson v. State*, 246 So. 3d 1277 (Fla. 1st DCA 2018). As the conviction for resisting without violence violates double jeopardy, it must be vacated and, if the reversal alters the lowest permissible sentence, Byram should be resentenced.

AFFIRMED in part; REVERSED in part; and REMANDED with instructions.

B.L. THOMAS, C.J., and ROWE and M.K. THOMAS, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Andy Thomas, Public Defender, and Joanna A. Mauer, Assistant Public Defender, Tallahassee, for Appellant.

Ashley B. Moody, Attorney General, and Samuel B. Steinberg, Assistant Attorney General, Tallahassee, for Appellee.