DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

JORON JOHN,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D15-2639

[November 23, 2016]

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Raag Singhal, Judge; L.T. Case No. 12-11656 CF10A.

Carey Haughwout, Public Defender, and James W. McIntire, Assistant Public Defender, West Palm Beach, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Richard Valuntas, Assistant Attorney General, West Palm Beach, for appellee.

TAYLOR, J.

Defendant Joron John appeals his convictions and sentences for two counts of attempted second-degree murder and one count of shooting at or into an occupied vehicle. We affirm the defendant's convictions but reverse and remand for resentencing in light of the Florida Supreme Court's recent decision in *Williams v. State*, 186 So. 3d 989 (Fla. 2016).

The defendant was charged by information with two counts of attempted first-degree murder and one count of shooting at or into an occupied vehicle. Witnesses testified at trial that the defendant pursued two men who had repossessed and loaded his vehicle onto a tow truck and then shot at them and their tow truck. The jury found the defendant guilty of two counts of attempted second-degree murder and that he actually possessed and discharged a firearm. Each count carried a mandatory minimum sentence of twenty years. The jury also found defendant guilty of shooting at or into an occupied vehicle.

At sentencing, the trial court imposed two twenty-year prison terms for the attempted second-degree murder charges, to run consecutively. The

trial court stated that it was required by prevailing case law to impose the twenty-year mandatory minimum sentences consecutively. Indeed, at the time of sentencing, the trial court was bound by our decision in *Williams v. State*, 125 So. 3d 879 (Fla. 4th DCA 2013), where we held that consecutive sentences were required under the 10–20–Life statute for multiple firearm offenses, even though the offenses arose out of one criminal episode.

The defendant appealed his consecutive minimum mandatory twenty-year sentences. While his appeal was pending, the Florida Supreme Court quashed our decision in *Williams* and held that when "multiple firearm offenses are committed contemporaneously, during which time multiple victims are shot at, then consecutive sentencing is permissible but not mandatory." 186 So. 3d at 993. Thus, whether to impose sentences arising from the same criminal episode consecutively or concurrently is a sentencing decision within the trial court's discretion. *Id.*

Here, at the time of sentencing, the trial court did not have the benefit of the Florida Supreme Court's *Williams* decision and believed it lacked discretion to impose concurrent mandatory minimum sentences. The defendant is thus entitled to be resentenced consistent with the Florida Supreme Court's holding in *Williams*. *See Colletta v. State*, 126 So. 3d 1090 (Fla. 4th DCA 2012) (reversing for resentencing where the trial court erroneously believed it lacked sentencing discretion).

Affirmed in part, Reversed in part, and Remanded.

FORST and KLINGENSMITH, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.