

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2009

JOHNNY R. JOHNSON,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D08-2126

[July 29, 2009]

TUTER, JACK, Associate Judge.

The Defendant timely appeals his judgment and conviction for grand theft. The Defendant was adjudicated and sentenced for both grand theft and dealing in stolen property. Section 812.025, Florida Statutes (2006), prohibits convictions for both crimes where a single charging document charges “theft and dealing in stolen property in connection with one scheme or course of conduct.” *See Toson v. State*, 864 So. 2d 552, 554 (Fla. 4th DCA 2004). Therefore, adjudicating and sentencing the Defendant on both of these counts violates section 812.025, Florida Statutes (2006).

The judgment and conviction for grand theft (L.T. Case No. 06-695) is reversed with directions to vacate the judgment and conviction only as to Count I. Because the Defendant was sentenced well below the maximum possible sentences for the other crimes of which he was adjudicated, we find no error as to the sentence imposed.

Affirmed in part, Reversed in part and remanded with directions to vacate the judgment for grand theft.

MAY and DAMOORGIAN, JJ., concur.

* * *

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, Okeechobee County; Lawrence Mirman and Sherwood Bauer, Judges; L.T. Case Nos. 06-695 CF, 05-776 CF, & 05-726 CF.

Carey Haughwout, Public Defender, and Elisabeth Porter, Assistant Public Defender, West Palm Beach, and Johnny R. Johnson, Carrabelle, for appellant.

Bill McCollum, Attorney General, Tallahassee, and Don M. Rogers, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.