

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

| | | |
|------------------------|---|-------------------|
| DERRICK MARCUS TURNER, |) | |
| |) | |
| Appellant, |) | |
| |) | |
| v. |) | Case No. 2D15-480 |
| |) | |
| STATE OF FLORIDA, |) | |
| |) | |
| Appellee. |) | |
| _____ |) | |

Opinion filed August 31, 2016.

Appeal from the Circuit Court for Hillsborough County; Gregory P. Holder and Anthony K. Black, Judges.

Howard L. Dimmig, II, Public Defender, and Keith W. Upson, Special Assistant Public Defender, Bartow, for Appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Chelsea S. Alper, Assistant Attorney General, Tampa, for Appellee.

PER CURIAM.

We reverse Derrick Marcus Turner's judgment and sentence for conspiracy to traffic in cocaine.¹ We agree with the State's concession that the trial

¹Turner filed a petition alleging ineffective appellate counsel pursuant to Florida Rule of Appellate Procedure 9.141(d), which was granted in part, and this court

court was prohibited by double jeopardy principles from setting aside the judgment of acquittal on this charge, which was entered following the close of the State's case, and then reinstating it after the defense rested. See Smith v. Massachusetts, 543 U.S. 462, 464-75 (2005).

Reversed.

NORTHCUTT, LaROSE, and CRENSHAW, JJ., Concur.

afforded him a new direct appeal allowing him to challenge this specific conviction only. Turner v. State, 171 So. 3d 722 (Fla. 2d DCA 2015) (table decision).