

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

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

COREY ANTHONY JOHNSON, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 STATE OF FLORIDA, )  
 )  
 Appellee. )  
 \_\_\_\_\_ )

Case No. 2D16-3816

Opinion filed December 22, 2017.

Appeal from the Circuit Court for Polk  
County; James A. Yancey, Judge.

Howard L. Dimmig, II, Public Defender,  
and Kevin Briggs, Assistant Public  
Defender, Bartow, for Appellant.

Pamela Jo Bondi, Attorney General,  
Tallahassee, and David Campbell,  
Assistant Attorney General, Tampa, for  
Appellee.

CASANUEVA, Judge.

Corey Anthony Johnson appeals his convictions for driving while license  
suspended, fleeing or attempting to elude a police officer, depriving an officer of means  
of protection or communication, resisting an officer with violence, felony battery, criminal

mischief, and resisting an officer without violence. He argues on appeal, and the State correctly concedes, that his convictions and sentences for both resisting an officer with violence and resisting an officer without violence violate double jeopardy principles.

Mr. Johnson's vehicle was stopped by police when he failed to stop at a stop sign. During the traffic stop, Mr. Johnson was accused of resisting the officer with violence for repeatedly punching the officer, and he was also accused of resisting the same officer without violence by thereafter fleeing and ignoring the officer's commands to stop. "[C]ourts have uniformly held that separate convictions for resisting arrest with violence and resisting arrest without violence are prohibited when the acts of resisting occurred as part of a single criminal episode." Williams v. State, 959 So. 2d 790, 792 (Fla. 2d DCA 2007); see also Ruiz-Alegria v. State, 14 So. 3d 1276, 1277 (Fla. 2d DCA 2009). In determining whether the charges relating to the acts of resisting are part of one criminal episode, "a defendant's continuous resistance to a single ongoing attempt to effectuate his arrest constitutes a single episode of resisting." Williams, 959 So. 2d at 793. Furthermore, when a defendant flees from officers and is therefore arrested at a different location from where he was originally detained, it does not transform the single continuous resistance into separate criminal episodes. Id. In the present case, Mr. Johnson's attempt to flee directly followed his striking the officer, and consequently, the two charges were part of one criminal episode. Therefore, the convictions for both offenses violate the constitutional protection against double jeopardy.

Accordingly, we reverse Mr. Johnson's conviction for resisting arrest without violence and remand for resentencing. Mr. Johnson's remaining convictions are affirmed.

Affirmed in part; reversed in part; and remanded.

KELLY and BADALAMENTI, JJ., Concur.