

DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

CHRISTLE THOMPSON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

No. 2D21-2602

November 30, 2022

Appeal from the Circuit Court for Lee County; Mark A. Steinbeck,
Senior Judge.

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

Ashley Moody, Attorney General, Tallahassee, and William C.
Shelhart, Assistant Attorney General, Tampa, for Appellee.

BLACK, Judge.

Christle Thompson was convicted following a jury trial of
felony DUI, fourth or more (count 1), and two counts of
misdemeanor DUI with property damage (counts 2 and 3). She was

sentenced to concurrent 364-day jail terms. The jail term imposed on count 1 is to be followed by two years of community control and then two years of drug offender probation. Thompson raises two issues on appeal, only one of which has merit. As the State properly concedes, Thompson's convictions for two counts of DUI with property damage violate the prohibition against double jeopardy where the evidence established that the damaged property—two traffic signs—belonged to the same victim.

Thompson's double jeopardy claim is subject to de novo review. *See Velazco v. State*, 342 So. 3d 614, 616 n.3 (Fla. 2022) (quoting *Graham v. State*, 207 So. 3d 135, 137 (Fla. 2016)). While driving under the influence, Thompson damaged two traffic signs with her vehicle. Section 316.193(3), Florida Statutes (2020), provides, in relevant part:

(3) Any person:

(a) Who is in violation of subsection (1)[, DUI];

(b) Who operates a vehicle; and

(c) Who, by reason of such operation, causes or contributes to causing:

1. Damage to the property or person *of another* commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(Emphasis added.) Due to the damage to the two traffic signs, Thompson was charged and ultimately convicted of two counts of DUI with property damage. It is undisputed, however, that both traffic signs belonged to the Lee County Board of County Commissioners such that there was only one victim.

"It is abundantly clear from [s]ection 316.193 that the legislature contemplated separate offenses where different victims are injured or killed, or *where the driver causes damage to different victims' property.*" *State v. Wright*, 546 So. 2d 798, 799 (Fla. 1st DCA 1989) (emphasis added). But where the defendant's conduct results in damage to the property of only a single victim, multiple convictions for DUI with property damage violate the prohibition against double jeopardy. *Cf. Velazco*, 342 So. 3d at 616-19 (concluding that Velazco's convictions for both DUI with property damage pursuant to section 316.193(3)(c)1 and DUI with serious bodily injury pursuant to section 316.193(3)(c)2 arising from a single episode and involving a single victim where Velazco's actions resulted in injury to the victim and damage to that same victim's

property violated the prohibition against double jeopardy). As such, Thompson's dual convictions for DUI with property damage cannot stand.

We affirm Thompson's convictions and sentences for felony DUI and one count of DUI with property damage but reverse and remand for the trial court to vacate the conviction and sentence for the second count of DUI with property damage.

Affirmed in part, reversed in part, and remanded with instructions.

CASANUEVA and LUCAS, JJ., Concur.

Opinion subject to revision prior to official publication.