



sentence for possession of heroin contained in count three of his judgment and sentence.

At the outset we observe that, despite his entry of a guilty plea, Charneco is entitled to raise this claim because the double jeopardy violation is apparent from the record, Charneco entered an open plea, and he did not waive the issue. See Novaton v. State, 634 So. 2d 607, 609 (Fla. 1994); Williamson v. State, 859 So. 2d 553 (Fla. 1st DCA 2003).

Charneco was arrested after officers discovered 12.6 grams of heroin in his apartment and three grams of heroin on his person. The offense of possession of heroin must be reversed because one cannot be convicted of the offense of trafficking by possession and the offense of possession of the same type of drugs where the drugs in question were found in different locations during one arrest. See Howard v. State, 30 Fla. L. Weekly D1447 (Fla. 2d DCA June 8, 2005); see also Gibbs v. State, 698 So. 2d 1206 (Fla. 1997); Sims v. State, 793 So. 2d 1153 (Fla. 4th DCA 2001).

We therefore reverse Charneco's conviction and sentence for possession of heroin contained in count three of the judgment and sentence; we otherwise affirm.

Affirmed in part; reversed in part.

FULMER, C.J., and STRINGER, J., Concur.