

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

JABE CARNEY,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
 _____)

Case No. 2D08-1753

Opinion filed September 30, 2009.

Appeal from the Circuit Court for
Manatee County; Janette Dunnigan,
Judge.

Joseph J. Registrato, Tampa, for
Appellant.

Bill McCollum, Attorney General,
Tallahassee, and Timothy A. Freeland,
Assistant Attorney General, Tampa, for
Appellee.

CRENSHAW, Judge.

Jabe Carney appeals his judgments and sentences of fifteen years' incarceration for DUI manslaughter, driving while license suspended and causing death, driving while license suspended as a habitual offender, and two counts of misdemeanor DUI. Because the trial court erred in sentencing Carney twice for one homicide, we

reverse and remand for the imposition of an appropriate sentence, and affirm on all other grounds without comment.

On February 5, 2006, Carney was involved in a single-automobile accident just south of the Skyway Bridge, which resulted in a passenger's death when the car lost control and spun off the roadway. Carney was subsequently charged with DUI manslaughter, driving while license suspended and causing death, driving while license suspended as a habitual offender, and two counts of misdemeanor DUI. Carney pleaded guilty to driving while license suspended as a habitual offender, and a jury found him guilty of all other charges. Carney was sentenced to fifteen years for DUI manslaughter and to five years for driving while license suspended and causing death.

The State concedes error. We agree, and find that while it was proper to convict Carney of DUI manslaughter and driving while license suspended, the trial court erred when it enhanced the degree of both crimes based on a single homicide. See State v. Cooper, 634 So. 2d 1074, 1075 (Fla. 1994).

Accordingly, we reverse and remand for the imposition of an appropriate sentence. Carney's convictions are affirmed.

Affirmed in part, reversed in part, and remanded.

LaROSE and KHOUZAM, JJ., Concur.