

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

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

KEVIN SANDERS, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 STATE OF FLORIDA, )  
 )  
 Appellee. )  
 \_\_\_\_\_ )

Case No. 2D09-4013

Opinion filed August 13, 2010.

Appeal from the Circuit Court for  
Hillsborough County; Emmett L. Battles,  
Judge.

Frances Martinez of Escobar, Ramirez &  
Associates, P.A., Tampa, for Appellant.

Bill McCollum, Attorney General,  
Tallahassee, and Richard M. Fishkin,  
Assistant Attorney General, Tampa, for  
Appellee.

DAVIS, Judge.

Kevin Sanders challenges his August 31, 2009, judgments and sentences  
for attempted second-degree murder and conspiracies to commit aggravated battery,  
aggravated assault, and armed burglary. We affirm his conviction and sentence for

attempted second-degree murder without comment. Additionally, we conclude that the trial court did not err in denying Sanders' motion for judgment of acquittal on the conspiracy charges; however, the State has properly conceded that because the three counts of conspiracy originated from a single agreement, we must reverse Sanders' convictions and sentences on those three counts and remand the case to the trial court with instructions to enter a judgment and sentence for one count of conspiracy. See Negrón Gil de Rubio v. State, 987 So. 2d 217, 219 (Fla. 2d DCA 2008) ("At the heart of any conspiracy is an agreement. . . . If there is but a single agreement, then there is but a single conspiracy even though it involves the commission of multiple crimes.").

In so doing, we note that Negrón Gil de Rubio indicates that the conspiracy offense with the greatest sentence is the count upon which the trial court should enter judgment and sentence. Id. We affirm in all other respects.<sup>1</sup>

Affirmed in part, reversed in part, and remanded.

WHATLEY and MORRIS, JJ., Concur.

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<sup>1</sup>We do not address the impact of this reversal on Sanders' sentence for attempted second-degree murder because the issue is not before this court.