

Third District Court of Appeal

State of Florida

Opinion filed July 22, 2020.
Not final until disposition of timely filed motion for rehearing.

No. 3D20-785
Lower Tribunal No. 05-295B

Peter Jay Cardenas,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Miami-Dade County, Miguel M. de la O, Judge.

Peter Jay Cardenas, in proper person.

Ashley Moody, Attorney General, for appellee.

Before EMAS, C.J., and FERNANDEZ and HENDON, JJ.

PER CURIAM.

Affirmed. See § 775.021, Fla. Stat. (2005) (incorporating the double jeopardy test established in Blockburger v. United States, 284 U.S. 299 (1932)); Lopez v. State, 2 So. 3d 1057 (Fla. 3d DCA 2009); Salazar v. State, 675 So. 2d 654 (Fla. 3d DCA 1996); Atkins v. State, 229 So. 3d 402 (Fla. 1st DCA 2017); Green v. State, 828 So. 2d 462 (Fla. 5th DCA 2002) (holding that separate convictions and sentences for armed carjacking and burglary of a conveyance with an assault do not violate section 775.021 or double jeopardy principles, as the crimes of carjacking and burglary of a conveyance each requires an element that the other does not); Coughlin v. State, 932 So. 2d 1224, 1226 (Fla. 2d DCA 2006) (rejecting defendant’s claim that his sentences for attempted first-degree murder and attempted felony-murder involving the same act and same victim were illegal and cognizable by motion to correct illegal sentence pursuant to Fla. R. Crim. P. 3.800(a); holding: “Double jeopardy challenges to convictions are not cognizable under rule 3.800(a) for two reasons. First, a traditional double jeopardy challenge attacks both the conviction and, by default, the sentence, while rule 3.800(a) is limited to claims that a sentence itself is illegal, without regard to the underlying conviction. Second, permitting defendants to attack their conviction and sentence under rule 3.800(a) would subsume Florida Rule of Criminal Procedure 3.850 into rule 3.800(a), thereby allowing defendants to circumvent rule 3.850’s two-year time bar for attacking their convictions and sentences.”) (Internal citations omitted.) See also § 775.084(4)(a)1.,

Fla. Stat. (2005) (providing that the court may sentence a habitual felony offender up to life imprisonment for a felony of the first degree).