

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA

THIRD DISTRICT

JULY TERM, A.D. 2002

MICHAEL GRAHAM,

**

Appellant,

**

vs.

** CASE NO. 3D01-3417

THE STATE OF FLORIDA,

** LOWER

Appellee.

** TRIBUNAL NOS. 00-20200 &
00-20199

Opinion filed July 17, 2002.

An Appeal from the Circuit Court for Miami-Dade County, Jerald Bagley, Judge.

Bennett H. Brummer, Public Defender, and Howard K. Blumberg, Assistant Public Defender, for appellant.

Robert A. Butterworth, Attorney General, and Marni A. Bryson, Assistant Attorney General, for appellee.

Before GODERICH, FLETCHER and SORONDO, JJ.

PER CURIAM.

We find no merit in appellant's first point on appeal. We do, however, agree that appellant cannot be legally convicted and sentenced for the crimes of possession of cocaine within one thousand feet of a school and possession of cocaine based on his possession of multiple quantities of cocaine at the same time and

place. See Grene v. State, 702 So. 2d 510 (Fla. 3d DCA 1997); Tucker v. State, 608 So. 2d 122 (Fla. 2d DCA 1992). Accordingly, we reverse the defendant's conviction and sentence on the charge of possession of cocaine with intent to sell and remand for discharge on that count.¹

Reversed and remanded with instructions.

¹ The State concedes error on this issue.