

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JULY TERM 2008

JAMES AUGUST,

Appellant,

v.

Case No. 5D07-4044

STATE OF FLORIDA,

Appellee.

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Opinion filed August 1, 2008.

Appeal from the Circuit Court
for Orange County,
Alicia L. Latimore, Judge.

James S. Purdy, Public Defender,
and David S. Morgan, Assistant Public
Defender, Daytona Beach, for Appellant.

Bill McCollum, Attorney General,
Tallahassee, and Rebecca Rock
McGuigan, Assistant Attorney General,
Daytona Beach, for Appellee.

COHEN, J.

James August appeals his judgment and sentence for possession of a firearm by a convicted felon, possession of cannabis with intent to sell and deliver, possession of more than 20 grams of cannabis, and possession of drug paraphernalia. August seeks reversal of his convictions based upon an alleged discovery violation at trial and

dismissal of the conviction for possession of more than 20 grams of cannabis under double jeopardy principles. We affirm in part and reverse in part.

August complains that the State failed to provide copies of prior judgments and sentences that were used on rebuttal to impeach his testimony at trial. The record reflects that the State advised the defense pre-trial that August had a prior criminal record and copies were available for inspection. The trial court's ruling that no discovery violation occurred is supported by the record and does not constitute error.

As to August's second claim, the State properly concedes error. Convictions and sentences for both possession of cannabis with intent to sell and possession of cannabis over 20 grams arising out of a single possession violate double jeopardy. Crites v. State, 959 So. 2d 1265, 1266 (Fla. 5th DCA 2007). Because August was convicted on count two, possession of cannabis with intent to sell or deliver, the conviction and sentence on count three, possession of more than 20 grams of cannabis, is reversed.

AFFIRMED in part, REVERSED in part.

PLEUS and LAWSON, JJ., concur.