

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, FOURTH DISTRICT

Torreio M. Ealy v. State of Florida

Ealy · No. 4D21-3002 · Decided February 8, 2023

SUMMARY

The Fourth District Court of Appeal of Florida affirmed the judgment in Torreio M. Ealy’s appeal. The court held, relying on State v. Brown, that the appellant’s consent to separate trials did not create double jeopardy, collateral estoppel, or due process concerns concerning the State’s reference to firearm possession evidence in a subsequent trial.

CASE DETAILS

COURT	District Court of Appeal of the State of Florida, Fourth District
WRITING FOR THE COURT	Per Curiam; Warner, J.; Ciklin, J.; Forst, J.
JURISDICTION	Florida
DECIDED	February 8, 2023
DOCKET	4D21-3002
DISPOSITION	affirmed
PROCEDURAL POSTURE	Ealy appealed a circuit-court criminal judgment involving separate trials arising from the same incident and asserting double-jeopardy, collateral-estoppel, or due-process concerns.
PRECEDENTIAL VALUE	Published opinion; precedential value subject to any timely rehearing disposition
PARTIES	Torreio M. Ealy v. State of Florida

TOPICS

- double jeopardy
- due process
- criminal procedure
- appellate procedure

PRACTICE AREAS

- Criminal law
- Criminal procedure
- Constitutional law
- Appellate procedure

QUESTIONS PRESENTED

1. Whether the defendant's consent to separate trials arising from the same incident eliminated double-jeopardy or collateral-estoppel concerns.
2. Whether a separate Florida due-process right barred the State from referencing the defendant's firearm possession, addressed in the initial trial, during a second trial on other charges arising from the same incident.

HOLDINGS

1. The defendant's consent to separate trials obviated the asserted double-jeopardy and collateral-estoppel concerns.
2. Neither *Burr v. State* nor *State v. Perkins* establishes a separate Florida due-process right barring the State from referencing the defendant's firearm possession during a second trial addressing other charges arising from the same incident.

KEY QUOTATIONS

“the defendant’s “consent to separate trials obviated any double jeopardy or collateral estoppel concerns,” and neither Burr v. State, 576 So. 2d 278 (Fla. 1991) nor State v. Perkins, 349 So. 2d 161 (Fla. 1977) stand “for the proposition that a separate Florida due process right bars the State from referencing [the defendant’s] firearm possession [addressed in an initial possession of firearm trial] during a second trial” addressing the other charges arising from the same incident”

FACTUAL BACKGROUND

The charges arose from the same incident, including a firearm-possession charge addressed in an initial trial and other charges addressed in a subsequent trial. The opinion indicates that Ealy consented to separate trials. The State referenced the firearm possession during the later trial, prompting the asserted double-jeopardy, collateral-estoppel, and due-process concerns.

PROCEDURAL HISTORY

The appeal was taken from the Circuit Court for the Nineteenth Judicial Circuit in Indian River County. The Fourth District Court of Appeal affirmed without further explanation, citing *State v. Brown*.

DISPOSITION

affirmed

CASES CITED

- *State v. Brown*, 310 So. 3d 1046, 1048-49 (Fla. 5th DCA 2020)
- *Burr v. State*, 576 So. 2d 278 (Fla. 1991)
- *State v. Perkins*, 349 So. 2d 161 (Fla. 1977)

OPINION

TORREVIO M. EALY v. STATE OF FLORIDA

PER CURIAM.

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA

FOURTH DISTRICT

TORREVIO M. EALY,

Appellant, v.

STATE OF FLORIDA,

Appellee. No. 4D21-3002 [February 8, 2023] Appeal from the Circuit Court for the Nineteenth Judicial Circuit, Indian River County; Dan L. Vaughn, Judge; L.T. Case No. 312019CF001141A. Carey Haughwout, Public Defender, and Mara C. Herbert, Assistant Public Defender, West Palm Beach, for appellant. Ashley Moody, Attorney General, Tallahassee, and Pablo Tapia, Assistant Attorney General, West Palm Beach, for appellee. PER CURIAM. Affirmed. See *State v. Brown*, 310 So. 3d 1046, 1048-49 (Fla. 5th DCA 2020) (the defendant's "consent to separate trials obviated any double jeopardy or collateral estoppel concerns," and neither *Burr v. State*, 576 So. 2d 278 (Fla. 1991) nor *State v. Perkins*, 349 So. 2d 161 (Fla. 1977) stand "for the proposition that a separate Florida due process right bars the State from referencing [the defendant's] firearm possession [addressed in an initial possession of firearm trial] during a second trial" addressing the other charges arising from the same incident). WARNER, CIKLIN and FORST, JJ., concur. * * * Not final until disposition of timely filed motion for rehearing.