

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

Torrevio 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 Torrevio 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.

OPINION

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.