

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

Sharmarkco Dontrayvious Evans v. State of Florida

No. 4D2024-2867 · No. 4D2024-2867 · Decided April 8, 2026

SUMMARY

The Florida Fourth District Court of Appeal affirmed Sharmarkco Dontrayvious Evans's conviction for possession of a firearm by a convicted felon and rejected challenges concerning evidentiary sufficiency, constitutional validity, and jury size. The court reversed the three-year mandatory minimum sentence and \$50 investigative cost because the jury did not expressly find actual possession and the State had not requested the investigative costs.

CASE DETAILS

COURT	District Court of Appeal of the State of Florida, Fourth District
WRITING FOR THE COURT	Forst, J.; Klingensmith, J.; Shepherd, J.
JURISDICTION	District Court of Appeal of the State of Florida, Fourth District
DECIDED	April 8, 2026
DOCKET	4D2024-2867
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a criminal conviction and sentence for possession of a firearm or ammunition by a convicted felon. The appellant challenged the denial of his motion for judgment of acquittal, several constitutional and jury issues, a three-year mandatory minimum sentence, and a \$50 investigative cost.
STANDARD OF REVIEW	De novo review applies to a motion for judgment of acquittal, a motion to correct sentencing error, and imposition of costs pursuant to statutes.
PRECEDENTIAL VALUE	Published intermediate appellate opinion
PARTIES	Sharmarkco Dontrayvious Evans v. State of Florida

TOPICS

- criminal procedure
- sentencing
- evidence
- appellate procedure
- remedies

PRACTICE AREAS

criminal law

criminal procedure

appellate sentencing

constitutional law

evidence

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to sustain Evans's conviction and whether the trial court properly denied his motion for judgment of acquittal.
2. Whether the trial court's colloquy regarding Evans's stipulation to prior convicted-felon status was sufficient.
3. Whether section 790.23(1), Florida Statutes (2022), is facially constitutional under the Florida Constitution.
4. Whether section 790.23(1), Florida Statutes (2022), is facially constitutional under the United States Constitution.
5. Whether the size of the jury was proper.
6. Whether the trial court improperly imposed a three-year mandatory minimum sentence under section 775.087(2)(a)1., Florida Statutes (2022), without an express jury finding of actual possession.
7. Whether the trial court improperly imposed a \$50 investigative cost without a request by the State.

HOLDINGS

1. The evidence was sufficient for a jury to find beyond a reasonable doubt that the shooter, the biker, and the person interviewed by the sergeant were the same person and that the person was Evans; therefore, the trial court properly denied the motion for judgment of acquittal.
2. Section 790.23(1), Florida Statutes (2022), is facially constitutional under the Florida Constitution.
3. Section 790.23(1), Florida Statutes (2022), is facially constitutional under the United States Constitution.
4. The trial court did not err regarding the size of the jury.
5. A three-year mandatory minimum sentence for possession of a firearm by a convicted felon may be imposed only when the jury makes an express finding of actual possession. Because the jury's special interrogatory did not distinguish actual from constructive possession, the mandatory minimum had to be stricken.
6. A trial court may not impose investigative costs when the record does not show that the State requested reimbursement; such costs must be stricken and cannot be imposed on remand.

KEY QUOTATIONS

“The evidence was sufficient for a jury to find that the shooter, the biker, and the interviewee were the same person and that Appellant was that person.” (4)

“As we have repeatedly explained, in order for the three-year mandatory minimum sentence under Florida Statutes section 775.087(2)(a)1. to be imposed for possession of a firearm by a convicted felon, the jury must make an express finding of actual possession.” (4–5)

“Trial courts cannot impose investigative costs ‘where the record does not demonstrate that the State requested reimbursements for these costs.’” (5)

FACTUAL BACKGROUND

After a detective heard gunshots, he encountered a man on a white bicycle wearing a gray hooded sweatshirt who reported that his homeboy had been shot. Surveillance footage showed a man on a white bicycle firing what appeared to be a gun at a fleeing vehicle, and evidence concerning the bicycle, clothing, interview, and bullet casing linked the shooter to Evans. Evans has a twin brother, creating some confusion in the identification testimony, but the detective and sergeant ultimately identified Evans as the biker and interviewee. The jury found Evans guilty of possession of a firearm or ammunition by a convicted felon.

PROCEDURAL HISTORY

The Circuit Court for the Nineteenth Judicial Circuit in St. Lucie County denied Evans's motion for judgment of acquittal and the jury convicted him of possession of a firearm or ammunition by a convicted felon. The trial court imposed an eight-year prison sentence with a three-year mandatory minimum and a \$50 investigative cost. Evans challenged the sentencing errors through a Florida Rule of Criminal Procedure 3.800(b)(2) motion; the motion was deemed denied when the trial court did not rule within sixty days. The Fourth District affirmed the conviction and issues I through V, but reversed the mandatory minimum and investigative cost and remanded with instructions to strike them.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Strike the three-year mandatory minimum sentence and the \$50 investigative cost from Evans's sentence.

CASES CITED

- Nelson v. State, 195 So. 2d 853 (Fla. 1967)
- Simpson v. State, 368 So. 3d 513, 520–24 (Fla. 5th DCA 2023) (Pratt, J., concurring)
- Paul v. State, 381 So. 3d 617 (Fla. 4th DCA 2024)
- Fleming v. State, 414 So. 3d 175 (Fla. 4th DCA 2025)
- Edenfield v. State, 379 So. 3d 5, 9–10 (Fla. 1st DCA 2023), reh’g denied, 375 So. 3d 930 (Fla. 1st DCA 2023), rev. denied, No. SC2023-1106, 2023 WL 8710101 (Fla. Dec. 18, 2023)
- Guzman v. State, 350 So. 3d 72, 73 (Fla. 4th DCA 2022), rev. denied, No. SC2022-1597, 2023 WL 3830251 (Fla. June 6, 2023), cert. denied, 144 S. Ct. 2595 (2024)
- Santisteban v. State, 72 So. 3d 187, 194–95 (Fla. 4th DCA 2011)
- Lynch v. State, 293 So. 2d 44, 45 (Fla. 1974)
- Pitts v. State, 202 So. 3d 882, 884 (Fla. 4th DCA 2016)
- Rock v. State, 392 So. 3d 791, 792 (Fla. 4th DCA 2024)

- State v. Collazo, 93 So. 3d 417, 418 (Fla. 4th DCA 2012)
- Banks v. State, 949 So. 2d 353, 355 (Fla. 4th DCA 2007)
- Richards v. State, 288 So. 3d 574, 575 (Fla. 2020)
- Desrosiers v. State, 286 So. 3d 297, 300 (Fla. 4th DCA 2019)
- Chambers v. State, 217 So. 3d 210, 214 (Fla. 4th DCA 2017)

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