

SUPREME COURT OF FLORIDA

State of Florida v. Elizabeth Francis Marsh a/k/a Elizabeth Frances Marsh

No. SC18-1108 · No. SC18-1108 · Decided December 10, 2020

SUMMARY

The Supreme Court of Florida held that dual convictions for driving under the influence causing serious bodily injury and driving with a suspended license causing serious bodily injury are not barred by double jeopardy. Applying the Blockburger same-elements test as codified in section 775.021(4), Florida Statutes, the court concluded that each offense requires proof of an element the other does not and quashed the Second District Court of Appeal’s decision.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Polston, J.; Canady, C.J.; Labarga, J.; Lawson, J.; Muñiz, J.; Couriel, J.; Grosshans, J.
JURISDICTION	Florida
DECIDED	December 10, 2020
DOCKET	SC18-1108
DISPOSITION	quashed
PROCEDURAL POSTURE	The State sought review of the Second District Court of Appeal's decision under Florida's direct-conflict jurisdiction, arguing that the decision conflicted with decisions of the Fourth and Fifth District Courts of Appeal concerning whether dual convictions for DUI causing serious bodily injury and driving with a suspended license causing serious bodily injury violate double jeopardy.
STANDARD OF REVIEW	De novo review of the legal question whether separate convictions violate double jeopardy.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	State of Florida v. Elizabeth Francis Marsh a/k/a Elizabeth Frances Marsh

TOPICS

double jeopardy

criminal procedure

statutory interpretation

appellate jurisdiction

PRACTICE AREAS

criminal law

constitutional law

appellate practice

QUESTIONS PRESENTED

1. Whether dual convictions for driving under the influence causing serious bodily injury and driving with a suspended license causing serious bodily injury violate the constitutional prohibition against double jeopardy.
2. Whether Florida's statutory same-elements test and the exceptions in section 775.021(4)(b), Florida Statutes (2014), prohibit the dual convictions.
3. Whether the single homicide rule, rather than the Blockburger same-elements test codified in section 775.021(4), governs the double-jeopardy analysis.

HOLDINGS

1. The Blockburger same-elements test, as codified in section 775.021(4), Florida Statutes (2014), governs whether the dual convictions violate double jeopardy; the single homicide rule is incompatible with the plain language of the statute.
2. The offenses are separate under the same-elements test because DUI requires proof of intoxication, while driving with a suspended license requires proof of a suspended driving privilege.
3. Dual convictions for DUI with serious bodily injury and driving with a suspended license with serious bodily injury do not violate double jeopardy.

KEY QUOTATIONS

“This test ‘inquires whether each offense contains an element not contained in the other; if not, they are the same offense,’ and double jeopardy principles prohibit separate convictions and punishments based upon the same conduct.” (at 3)

“We hold that dual convictions for DUI with serious injury and DWLS with serious injury are not prohibited under the Blockburger same-elements test or any statutory exceptions codified in section 775.021(4), Florida Statutes.” (at 7)

FACTUAL BACKGROUND

Elizabeth Marsh rear-ended another vehicle while under the influence of illegal substances, causing serious bodily injury to two passengers. For each passenger, she was convicted of DUI with serious bodily injury and driving while license suspended with serious bodily injury. She entered an open, no contest plea, and the trial court imposed consecutive five-year sentences for the felony counts.

PROCEDURAL HISTORY

Marsh entered an open, no contest plea to two counts for each of DUI with serious bodily injury and driving while license suspended with serious bodily injury, arising from injuries to two passengers, plus a misdemeanor insurance charge. The trial court imposed consecutive five-year sentences for the felony convictions. The Second District held that the dual convictions violated Florida's single homicide rule and reversed or otherwise granted relief. The Supreme Court of Florida quashed the Second District's decision and approved the Fourth and Fifth District decisions to the extent consistent with its opinion.

DISPOSITION

quashed

CASES CITED

- Marsh v. State, 253 So. 3d 674 (Fla. 2d DCA 2018)
- Lott v. State, 74 So. 3d 556, 559-61 (Fla. 5th DCA 2011)
- Anguille v. State, 243 So. 3d 410, 414-15 (Fla. 4th DCA 2018)
- State v. Maisonet-Maldonado, No. SC19-1947, slip op. at 12 (Fla. Dec. 10, 2020)
- State v. Shelley, 176 So. 3d 914, 918 (Fla. 2015)
- M.P. v. State, 682 So. 2d 79, 81 (Fla. 1996)
- State v. Cooper, 634 So. 2d 1074 (Fla. 1994)
- Kelly v. State, 987 So. 2d 1237, 1238 (Fla. 2d DCA 2008)
- Gil v. State, 118 So. 3d 787, 792 (Fla. 2013)
- Gaber v. State, 684 So. 2d 189, 190-92 (Fla. 1996)
- Valdes v. State, 3 So. 3d 1067, 1075-77 (Fla. 2009)
- Blockburger v. United States, 284 U.S. 299, 304 (1932)