

DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

Boardwine v. State of Florida

No. 2D2024-1353 · No. 2D2024-1353 · Decided January 16, 2026

SUMMARY

The Florida Second District Court of Appeal affirmed Gary Boardwine's conviction for using computer services or devices to solicit certain illegal acts. It vacated his conviction and sentence for unlawful use of a two-way communication device on double-jeopardy grounds and remanded for resentencing using a corrected scoresheet listing only his actual convictions.

CASE DETAILS

COURT	District Court of Appeal of Florida, Second District
WRITING FOR THE COURT	Per curiam; Kelly, J.; Rothstein-Youakim, J.; Labrit, J.
JURISDICTION	District Court of Appeal of Florida, Second District
DECIDED	January 16, 2026
DOCKET	2D2024-1353
DISPOSITION	vacated
PROCEDURAL POSTURE	Appeal from criminal judgments and sentences entered after a jury found Gary Boardwine guilty of use of computer services or devices to solicit certain illegal acts and unlawful use of a two-way communication device.
PRECEDENTIAL VALUE	Published
PARTIES	Gary Boardwine v. State of Florida

TOPICS

- double jeopardy
- criminal procedure
- sentencing
- appellate procedure

PRACTICE AREAS

- criminal procedure
- appellate procedure
- sentencing
- constitutional law

QUESTIONS PRESENTED

- Whether Boardwine's convictions for use of computer services or devices to solicit certain illegal acts and unlawful use of a two-way communication device violated double jeopardy.

2. What relief was required after vacating the unlawful-use conviction and sentence, including whether resentencing on the remaining conviction was necessary.

HOLDINGS

1. The conviction and sentence for unlawful use of a two-way communication device violated the prohibition against double jeopardy and had to be vacated.
2. Because the unlawful-use judgment and sentence were vacated, Boardwine was entitled to be resentenced on the remaining conviction using a corrected scoresheet listing only his actual convictions.
3. The court affirmed that judgment without comment.

KEY QUOTATIONS

“Affirmed in part, vacated in part, and remanded with directions.” (2)

FACTUAL BACKGROUND

A jury found Gary Boardwine guilty of using computer services or devices to solicit certain illegal acts and of unlawfully using a two-way communication device. The appellate court determined that the latter conviction violated double jeopardy because Boardwine was also convicted of using devices to solicit certain illegal acts.

PROCEDURAL HISTORY

The Circuit Court for Hillsborough County entered judgments and sentences on the jury's guilty verdicts. The Second District affirmed the judgment for use of computer services or devices to solicit certain illegal acts, vacated the judgment and sentence for unlawful use of a two-way communication device on double-jeopardy grounds, and remanded for resentencing.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Remand for resentencing on the conviction for use of computer services or devices to solicit certain illegal acts using a corrected scoresheet listing only Boardwine's actual convictions.

CASES CITED

- Lee v. State, 258 So. 3d 1297, 1301-02 (Fla. 2018)
- Mizner v. State, 154 So. 3d 391, 399 (Fla. 2d DCA 2014)
- Fernandez v. State, 199 So. 3d 500, 502 (Fla. 2d DCA 2016)

OPINION

PER CURIAM.

DISTRICT COURT OF APPEAL OF FLORIDA SECOND DISTRICT GARY BOARDWINE, Appellant, v. STATE OF FLORIDA, Appellee. No. 2D2024-1353 January 16, 2026 Appeal from the Circuit Court for Hillsborough County; Kimberly K. Fernandez, Judge. Blair Allen, Public Defender, and Andrea M. Norgard, Assistant Public Defender, Bartow, for Appellant. James Uthmeier, Attorney General, Tallahassee, and William C. Shelhart, Assistant Attorney General, Tampa, for Appellee.

PER CURIAM. A jury found Gary Boardwine guilty of use of computer services or devices to solicit certain illegal acts and the unlawful use of a two-way communication device. We affirm Mr. Boardwine's judgment for use of computer services or devices to solicit certain illegal acts without comment. But we are compelled to vacate Mr. Boardwine's judgment and sentence for unlawful use of a two-way communication device because it violates the prohibition against double jeopardy.

See *Lee v. State*, 258 So. 3d 1297, 1301-02 (Fla. 2018); *Mizner v. State*, 154 So. 3d 391, 399 (Fla. 2d DCA 2014) (vacating the appellant's conviction for unlawful use of a two-way communication device on double jeopardy grounds where the appellant was additionally convicted for using devices to solicit certain illegal acts).

Because we reverse that judgment and sentence, Mr. Boardwine is entitled to be resentenced on his conviction for use of computer services or devices to solicit certain illegal acts. Upon resentencing the lower court shall sentence Mr. Boardwine using a corrected scoresheet that lists only his actual convictions. See *Fernandez v. State*, 199 So. 3d 500, 502 (Fla.

2d DCA 2016). Affirmed in part, vacated in part, and remanded with directions. KELLY, ROTHSTEIN-YOUAKIM, and LABRIT, JJ., Concur. Opinion subject to revision prior to official publication. 2