

DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

Boardwine v. State of Florida

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

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