

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JULY TERM 2009

STATE OF FLORIDA,

Appellant,

v.

CASE NO. 5D09-374

STEVEN GONZALEZ,

Appellee.

/

Opinion filed October 30, 2009

Appeal from the Circuit Court
for Marion County,
Willard Pope, Judge.

Bill McCollum, Attorney General,
Tallahassee, and Kristen L. Davenport,
Assistant Attorney General, Daytona
Beach, for Appellant.

Deana K. Marshall of Law Office of
Deana K. Marshall, P.A., Riverview, for
Appellee.

PER CURIAM.

The State of Florida appeals a final order granting Steven Gonzalez's motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. The trial court granted the motion relying on *MesheII v. State*, 980 So. 2d 1169 (Fla. 5th DCA 2008), *rev'd*, *State v. MesheII*, 2 So. 3d 132 (Fla. 2009), *cert den.*, --- S.Ct. ----, 2009 WL 1505119 (Oct. 5, 2009), and a finding that Gonzalez's dual convictions for lewd and lascivious battery violated double jeopardy based upon an insufficient temporal break

between the different acts of misconduct alleged in the information. Applying the supreme court's later decision in *Meshell*, it is clear that there was no double jeopardy violation. Accordingly, we reverse the order on appeal, and remand with directions that Gonzalez's motion be denied. *Lockhart v. Fretwell*, 506 U.S. 364, 371-72 (1993).

REVERSED AND REMANDED.

ORFINGER, LAWSON, and JACOBUS, JJ., concur.