

Third District Court of Appeal

State of Florida, July Term, A.D. 2009

Opinion filed September 23, 2009.
Not final until disposition of timely filed motion for rehearing.

No. 3D09-448
Lower Tribunal No. 06-14724

The State of Florida,
Appellant,

vs.

Laffayette Berry,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Dennis J. Murphy, Judge.

Bill McCollum, Attorney General, and Lunar Claire Alvey, Assistant Attorney General, for appellant.

Carlos J. Martinez, Public Defender, and Marti Rothenberg, Assistant Public Defender, for appellee.

Before COPE, GERSTEN, and CORTIÑAS, JJ.

PER CURIAM.

The State of Florida (“the State”) appeals Laffayette Berry’s (“the defendant”) downward departure sentence. We reverse.

Based on a review of the record, we find that there was no competent substantial evidence presented to support the downward departure sentence. See State v. Grayson, 916 So. 2d 51, 53 (Fla. 2d DCA 2005) (finding that a trial court is required to find that, based on the evidence presented at the hearing, the defendant had a mental disorder that required specialized treatment; had a reasonable possibility of successful treatment; and required treatment that the Department of Corrections could not provide). Here, the trial court did not find that the Department of Corrections could not provide the treatment the defendant required.

Accordingly, we reverse and remand for further proceedings.

Reversed and remanded.