

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

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

STATE OF FLORIDA,

Appellant,

v.

Case No. 5D15-4212

LINWOOD BOWSER,

Appellee.

_____ /

Opinion filed October 28, 2016

Appeal from the Circuit Court
for Osceola County,
A. James Craner, Judge.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Rebecca Rock
McGuigan, Assistant Attorney General,
Daytona Beach, for Appellant.

James S. Purdy, Public Defender, and
Kristen D. Dukes, Assistant Public
Defender, Daytona Beach, for Appellee.

PER CURIAM.

The State appeals a downward departure sentence imposed after the defendant, Linwood Bowser, entered a plea of guilty. The State contends that the trial court erred in ordering the downward departure sentence based on a plea offer previously revoked by the State. We agree that a previously revoked plea offer does not constitute a sufficient

ground for departure. See State v. Watson, 971 So. 2d 946, 948 (Fla. 3d DCA 2007); see also State v. Lago, 990 So. 2d 597, 599 (Fla. 3d DCA 2008). Therefore, we vacate the departure sentence and remand for resentencing within the guidelines. In the alternative, Bowser may be allowed to withdraw his plea. See Watson, 971 So. 2d at 948.

REVERSED and REMANDED.

SAWAYA, BERGER and WALLIS, JJ., concur.