

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

STATE OF FLORIDA,

Appellant,

v.

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

CASE NO. 1D12-4452

DANIEL SIGMEN,

Appellee.

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Opinion filed July 5, 2013.

An appeal from the Circuit Court for Escambia County.  
Ross Goodman, Judge.

Pamela Jo Bondi, Attorney General, and Angela R. Hensel, Assistant Attorney  
General, Tallahassee, for Appellant.

Nancy A. Daniels, Public Defender, and Steven L. Seliger, Assistant Public  
Defender, Tallahassee, for Appellee.

PER CURIAM.

The State appeals the trial court's imposition of downward departure  
sentences after Appellee's straight-up no contest plea to multiple counts in five

cases. While Appellee's scoresheet resulted in a minimum guidelines sentence of 88.9 months' imprisonment, the trial court sentenced Appellee to concurrent terms of three years' imprisonment followed by five years' probation. The State argues, and Appellee concedes, that the trial court's reason for departure was not based on competent, substantial evidence. We agree, reverse, and remand for resentencing.

When imposing a downward departure sentence, the trial court must determine whether there is a factually supported, legal ground for departure and whether departure is the best sentencing option for the defendant. State v. Adkison, 56 So. 3d 880, 882 (Fla. 1st DCA 2011). This Court reviews departure sentences to determine whether the grounds for departure were supported by competent, substantial evidence. Id. During the sentencing hearing, the trial court stated that it was entering the downward departure sentence based on proportionality. However, the trial court failed to make any factual findings to support this mitigating circumstance. It appears from the record before this Court that the trial court believed that the lowest minimum guideline sentence was too harsh for Appellee's crimes. Mere dissatisfaction with the guidelines is not an appropriate legal ground for imposing a departure sentence. State v. Whiteside, 56 So. 3d 799, 801 (Fla. 2d DCA 2011). We, therefore, REVERSE the sentences on appeal and REMAND for resentencing.

VAN NORTWICK, THOMAS, and ROWE, JJ., CONCUR.