

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*January Term 2011*

**ROBERT CRUM,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D09-3077

[March 9, 2011]

GERBER, J.

After having considered all of the arguments which the defendant raises in this appeal, we affirm the defendant's conviction and sentence for carrying a concealed firearm. We specifically reject the defendant's argument that the trial court should have instructed the jury on carrying a concealed weapon as a lesser included offense. We rely on the second district's reasoning in *Baldwin v. State*, 857 So. 2d 249 (Fla. 2d DCA 2003):

Although the definition of "concealed weapon" [in section 790.001, Florida Statutes] differs from the definition of "weapon" in that it does not specifically exclude firearms . . . from the category of "other deadly weapon," we do not believe that the legislature intended for a gun to be a "firearm" when not concealed, but to be both a "weapon" and a "firearm" when concealed. To read the statute in this manner would violate the basic rule of statutory construction that courts should not construe a statute in a manner that leads to an absurd result.

*Id.* at 251.

*Affirmed.*

GROSS, C.J., and STEVENSON, J., concur.

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Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Matthew I. Destry, Judge; L.T. Case No. 09-10566CF10A.

Carey Haughwout, Public Defender, and Gary Lee Caldwell, Assistant Public Defender, West Palm Beach, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Katherine Y. McIntire, Assistant Attorney General, West Palm Beach, for appellee.

***Not final until disposition of timely filed motion for rehearing.***