

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

JAMES BEAN,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D10-1207

[May 4, 2011]

PER CURIAM.

We reverse the finding that appellant willfully violated his community control. Appellant's house had been without electricity for several months, so he ran an extension cord from a neighbor's house to charge a miniature tracking device used to monitor his whereabouts. He had been sleeping outside to stay within the range of the tracking device, but moved inside to a bedroom due to the cold weather. This move brought him outside of the range of the tracking device. The state presented no evidence that appellant intentionally disregarded the rules of the GPS monitoring system. *See Correa v. State*, 43 So. 3d 738 (Fla. 2d DCA 2010).

Reversed and remanded.

GROSS, C.J., HAZOURI and CIKLIN, JJ., concur.

* * *

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Jeffrey J. Colbath, Judge; L.T. Case No. 2008CF009316AMB.

Carey Haughwout, Public Defender, and Narine N. Austin, Assistant Public Defender, West Palm Beach, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Heidi L. Bettendorf, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.