

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

STATE OF FLORIDA,
Appellant,

v.

BRIAN K. RUSSELL,
Appellee.

No. 4D10-2496

[August 17, 2011]

PER CURIAM.

Dismissed. See State v. Gray, 721 So. 2d 370, 370–71 (Fla. 4th DCA 1998) (noting that “[p]ursuant to Florida Rule of Appellate Procedure 9.140(c)(1), the state can appeal an illegal *sentence* or a downward departure *sentence*,” but finding no authority for the state to appeal a modification of probation because such action is not a sentence).

STEVENSON, GROSS, JJ., and STREITFELD, JEFFREY E., Associate Judge, concur.

* * *

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; John J. Hoy, Judge; L.T. Case No. 2007CF014879AMB.

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

Craig A. Boudreau, Wellington, for appellee.

Not final until disposition of timely filed motion for rehearing.