NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

KATHLEEN DIANE LAMB,)
Appellant,)
V.) Case No. 2D09-5130
STATE OF FLORIDA,)
Appellee.)))

Opinion filed December 22, 2010.

Appeal from the Circuit Court for Hillsborough County; Gregory P. Holder, Judge.

James Marion Moorman, Public Defender, and Allyn M. Giambalvo, Assistant Public Defender, Bartow, for Appellant.

Bill McCollum, Attorney General, Tallahassee, and Katherine Coombs Cline, Assistant, Attorney General, Tampa, for Appellee.

KHOUZAM, Judge.

Kathleen Diane Lamb pleaded guilty to obtaining drugs from a physician by withholding information. Lamb contends that the trial court erred in denying her motion to suppress certain documents obtained from her doctors. The State responds

that this issue was not preserved for appeal because there was no finding or stipulation that the denial of the motion was dispositive.

Florida Rule of Appellate Procedure 9.140(b)(2)(A)(i) permits a defendant to appeal from a guilty or nolo contendere plea if he "expressly reserve[s] the right to appeal a prior dispositive order of the lower tribunal, identifying with particularity the point of law being reserved." The trial court is responsible for announcing whether reserved issues are dispositive. Rust v. State, 742 So. 2d 471, 472 (Fla. 2d DCA 1999). "Without a ruling from the trial court that the motion was dispositive, this appeal could be dismissed or remanded to the trial court for a ruling." Id.

We have reviewed the record and are unable to determine whether the trial court's ruling on the motion to suppress would be dispositive of this case.

Accordingly, we remand this case to the trial court for a determination of whether its ruling was dispositive.

Remanded with directions.

WALLACE and MORRIS, JJ., Concur.