

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

STATE OF FLORIDA,)
)
 Appellant,)
)
 v.)
)
 RONALD PORCHE,)
)
 Appellee.)
 _____)

CASE NO. 2D02-176

Opinion filed September 27, 2002.

Appeal from the Circuit Court
for Pinellas County;
Mark I. Shames, Judge.

Robert A. Butterworth, Attorney
General, Tallahassee, and
Erica M. Raffel, Assistant
Attorney General, Tampa,
for Appellant.

James Marion Moorman, Public
Defender, and Tosha Cohen,
Assistant Public Defender, Bartow,
for Appellee.

GREEN, Judge.

The State appeals the trial court's downward departure sentence which imposed only time served upon the defendant, Ronald Porche. We reverse and remand for a sentence consistent with the sentencing guidelines.

Porche, who suffers from numerous physical ailments, sought a downward departure sentence based on section 921.0016(4)(d), Florida Statutes (2001), which authorizes such a sentence when a defendant is in need of specialized medical treatment. In State v. Abrams, 706 So. 2d 903 (Fla. 2d DCA 1998), this court reversed a trial court's downward departure sentence where there was no evidence in the record that the defendant required specialized treatment which could not be provided by the Department of Corrections. See also State v. Stewart, 749 So. 2d 555 (Fla. 2d DCA 2000). In this case, Porche presented an abundance of evidence supporting his assertion that he suffers from numerous serious medical conditions. However, there was no evidence that he will not receive the necessary treatment while in the custody of the Department of Corrections.

Reversed and remanded.

FULMER and COVINGTON, JJ., Concur.