

Third District Court of Appeal

State of Florida, July Term, A.D. 2009

Opinion filed December 9, 2009.
Not final until disposition of timely filed motion for rehearing.

No. 3D08-2400
Lower Tribunal No. 08-1797

The State of Florida,
Appellant,

vs.

Maxie Smith,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Dava J. Tunis,
Judge.

Bill McCollum, Attorney General, and Nicholas Merlin, Assistant Attorney
General, for appellant.

Carlos J. Martinez, Public Defender, and Gwendolyn Powell Braswell,
Assistant Public Defender, for appellee.

Before COPE, CORTIÑAS, and LAGOVA, JJ.

CORTIÑAS, J.

As in State v. Roberts, 963 So. 2d 747 (Fla. 3d DCA 2007), State v. Green, 932 So. 2d 365 (Fla. 3d DCA 2006), State v. Brownell, 922 So. 2d 244 (Fla. 3d DCA 2006), and State v. Mendez, 835 So. 2d 375 (Fla. 3d DCA 2003), we reverse the downward departure sentence entered pursuant to a court-initiated agreement with the defendant, in which the State did not participate, as it was unaccompanied by oral or written reasons justifying the departure. See State v. Barr, 947 So. 2d 1277 (Fla. 3d DCA 2007); State v. Ahua, 947 So. 2d 637 (Fla. 3d DCA 2007); State v. Perez, 802 So. 2d 1167 (Fla. 3d DCA 2001), *review denied*, 823 So. 2d 125 (Fla. 2002); State v. Paulk, 813 So. 2d 152 (Fla. 3d DCA 2002), *review denied*, 832 So. 2d 105 (Fla. 2002).

The sentence is therefore reversed with directions to enter sentence within the guidelines or to permit the defendant to withdraw his plea.

Reversed and remanded.