

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JULY TERM, A.D. 2001

THE STATE OF FLORIDA,

**

Appellant,

** CASE NO. 3D01-1275

vs.

** LOWER
TRIBUNAL NO. 00-12590

RAMON PEREZ,

**

Appellee.

**

Opinion filed December 5, 2001.

An Appeal from the Circuit Court for Dade County, Dennis J. Murphy, Judge.

Robert A. Butterworth, Attorney General, and Roberta G. Mandel, Assistant Attorney General, for appellant.

Bennett H. Brummer, Public Defender, and Carlos F. Gonzalez, Assistant Public Defender, for appellee.

Before JORGENSEN, LEVY, and GODERICH, JJ.

PER CURIAM.

The State appeals from a downward departure sentence. For the following reasons, we reverse.

The trial court offered the defendant a sentence of fourteen months as a habitual offender with credit for time served. The state

objected to the offer because it was below the guidelines.¹ The trial court noted the objection, and, apparently as a ground for the downward departure, stated that it had reservations about whether the state could prove its case. The defendant accepted the court's offer, and the court imposed the sentence. The state appeals.

We reverse because the downward departure was not supported by any written reasons, and the oral reason given (even if reduced to writing) is legally insufficient. See Banks v. State, 732 So. 2d 1065 (Fla. 1999) (holding that before trial court can impose downward departure, there must be a "valid legal ground and adequate factual support for that ground"); State v. Rinkins, 646 So. 2d 727 (Fla. 1994) ("If a trial judge chooses to impose a sentence more lenient than that required by section 775.084, the judge must still adhere to sentencing guidelines and must state appropriate reasons for any downward departure from guidelines."); State v. Stanton, 781 So. 2d 1129 (Fla. 3d DCA 2001) (holding that a departure from sentencing guidelines must be based on a valid legal reason); Hoffman v. State, 700 So. 2d 765, 767 (Fla. 3d DCA 1997); State v. McLeod, 652 So. 2d 923 (Fla. 3d DCA 1995); State v. Douglas, 744 So. 2d 1182 (Fla. 2d DCA 1999).

Accordingly, we vacate the sentence. On remand, the defendant must be afforded the opportunity to withdraw his plea. See State v.

¹ We disagree with the defendant's argument that this objection was not sufficiently specific to preserve the issue for appeal. See, e.g., State v. Turro, 724 So. 2d 1216, 1217 n.1 (Fla. 3d DCA 1998).

Meyers, 708 So. 2d 661 (Fla. 3d DCA 1998); State v. Gordon, 645 So. 2d 140 (Fla. 3d DCA 1994), rev. denied, 652 So. 2d 816 (Fla. 1995); State v. Stewart, 749 So. 2d 555 (Fla. 2d DCA 2000).

REVERSED AND REMANDED.