

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT

**JORDAN FUSS,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D17-327

[April 4, 2018]

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Tim Bailey, Judge; L.T. Case No. 15-002834 CF10A.

Patrick J. Curry, Fort Lauderdale, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Alexandra A. Folley, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

The defendant appeals his sentence of 14.625 years, arguing that the trial court erred by denying his motion for downward departure under section 921.0026(2)(j), Florida Statutes (2014), and specifically challenging the trial court's finding that, by a preponderance of the evidence, the incident was not isolated.

"Whether an incident is isolated is an issue of fact to be determined by the trial court and will not be reversed if there is competent substantial evidence to support it." *State v. Fontaine*, 955 So. 2d 1248, 1251 (Fla. 4th DCA 2007) (Warner, J., concurring). Based on the record before us and the arguments made on appeal, we conclude that the trial court's finding was supported by competent substantial evidence and we affirm.

*Affirmed.*

WARNER, CIKLIN and KLINGENSMITH, JJ., concur.

\* \* \*

***Not final until disposition of timely filed motion for rehearing.***