

**SIXTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA**

Case No. 6D2023-3125
Lower Tribunal No. 2017-CF-000090

JARI McMILLER,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

Appeal from the Circuit Court for Lee County.
Bruce Kyle, Judge.

October 7, 2025

PER CURIAM.

Appellant Jari McMiller challenges his conviction and sentence for racketeering (RICO) conspiracy, in violation of sections 895.03(4) and 874.04, Florida Statutes. We find no error and affirm. We write, however, to briefly address McMiller's claim that the trial court erred in declining to grant his request for a downward departure, in light of the mitigating evidence presented at sentencing. We find that we have jurisdiction to consider this claim on the merits. *See Gazoombi v. State*, 406 So. 3d 371, 375 (Fla. 1st DCA 2025) (en banc) (receding from *Wilson v.*

State, 306 So. 3d 1267 (Fla. 1st DCA 2020) and *Parrish v. State*, 349 So. 3d 485 (Fla. 1st DCA 2022), and holding that district courts of appeal had jurisdiction to review trial court's exercise of its discretion to deny downward departure sentence); *Fogarty v. State*, 158 So. 3d 669, 671 (Fla. 4th DCA 2014) (en banc); *Kiley v. State*, 273 So. 3d 193, 194 (Fla. 5th DCA 2019). Nevertheless, because the trial court did not abuse its discretion in declining to impose a downward departure sentence, we affirm.

AFFIRMED.

SMITH, MIZE and BROWNLEE, JJ., concur.

Blair Allen, Public Defender, and Nicholas Martino, Special Assistant Public Defender, Bartow, for Appellant.

James Uthmeier, Attorney General, Tallahassee, and Jonathan P. Hurley, Senior Assistant Attorney General, Tampa, for Appellee.

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING
AND DISPOSITION THEREOF IF TIMELY FILED