

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

VICTOR M. VALDIVIA,

APPELLATE CASE NO: 2018-AP-000021-A-O
LOWER COURT CASE NO: 2017-CT-6702-A-O

Appellant,

vs.

STATE OF FLORIDA,

Appellee.

Appeal from the County Court
for Orange County, Florida,
Evelen H. Jewett, County Court Judge

Robert Wesley, Public Defender and
Marie E. Taylor, Assistant Public Defender,
For Appellant

Aramis D. Ayala, State Attorney and
Kenneth Nunnelley, Assistant State Attorney,
For Appellee

Before HARRIS, MARQUES, and BLACKWELL, J.J.

Appellant contests the denial of his motion to suppress evidence following entrance of an open plea. Pursuant to section 924.06(3), Florida Statutes, a defendant who enters a plea of guilty or *nolo contendere* must expressly reserve the right to appeal a legally dispositive issue. This reservation may be established either by a ruling from the lower tribunal or by stipulation of the parties. *Lewis v. State*, 262 So. 3d 859 (Fla. 1st DCA December 31, 2018). A reservation may be inferred from the record where the lower court gives the impression that by entering a plea, the defendant is preserving a specific issue for appeal. *Lamb v. State*, 55 So. 3d 751 (Fla. 2d DCA 2011).

After the lower court adjudicated Appellant guilty and imposed sentence, trial counsel requested a finding that the denial of the motion to suppress was dispositive. The State refused to stipulate, and the lower court did not rule. We cannot infer, under these facts, that Appellant entered his plea believing that he could appeal the denial of his motion to suppress. Accordingly, the issues on appeal were not preserved. We otherwise affirm Appellant's judgment and sentence.

AFFIRMED.

DONE AND ORDERED in Chambers, at Orlando, Orange County, Florida, on this

____ day of July, 2019.

JENIFER M. HARRIS
Presiding Circuit Judge

MARQUES and BLACKWELL, J.J., concur.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to **the Honorable Evellen H. Jewett**, 425 North Orange Avenue, Orlando, Florida 32801; to **Kenneth Nunnelley**, Assistant State Attorney, 415 N. Orange Ave., Suite 200, Orlando, FL 32801; and to **Marie E. Taylor**, 435 North Orange Avenue, Suite 400, Orlando, Florida 32801, this ____ day of July, 2019.

Judicial Assistant