

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

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

R.A.J., A CHILD,

Petitioner,

v.

Case No. 5D14-626

STATE OF FLORIDA,

Respondent.

_____ /

Opinion filed March 28, 2014

Petition for Writ of Habeas Corpus,
A Case of Original Jurisdiction.

Robert Wesley, Public Defender, and
Lauren Senninger, Assistant Public
Defender, Kissimmee, for Petitioner.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Kaylee D. Tatman,
Assistant Attorney General, Daytona
Beach, for Respondent.

PER CURIAM.

R.A.J. petitions for a writ of habeas corpus, arguing that she should be immediately released from home detention with GPS monitoring based upon her reading of section 985.439(4), Florida Statutes. That section details some of the sanctions that may be imposed upon a juvenile after a finding that the child has violated conditions of probation. Subsection (4)(a) provides that the court may place the child "in a consequence unit . . . for up to 5 days for a first violation and up to 15 days for a second or subsequent violation."

Subsection (4)(b) provides that the court may place the child on home detention with electronic monitoring if a residential consequence unit is not available. Petitioner argues that the time limitations from subsection (4)(a) should also apply to the home detention sanction authorized by subsection (4)(b). We agree with the State that Petitioner's argument is inconsistent with the plain language of the statute—which unambiguously authorizes the sanction of home detention with electronic monitoring without the time limitations required for a residential consequence unit. *Cf. Beach v. Great W. Bank*, 692 So. 2d 146, 152 (Fla. 1997) ("[W]hen the legislature has used a term . . . in one section of the statute but omits it in another section of the same statute, we will not imply it where it has been excluded." (quoting *Leisure Resorts, Inc. v. Frank J. Rooney, Inc.*, 654 So. 2d 911, 914 (Fla. 1995))).

PETITION DENIED.

TORPY, C.J., LAWSON and COHEN, JJ., concur.