

IN THE SECOND DISTRICT COURT OF APPEAL, LAKELAND, FLORIDA

April 27, 2005

C.T.,	)	
	)	
Appellant,	)	
	)	
v.	)	Case No. 2D04-3049
	)	
STATE OF FLORIDA,	)	
	)	
Appellee.	)	
_____	)	

On this court's own motion and pursuant to Florida Rule of Appellate Procedure 9.331(a), a majority of the judges of the court have ordered this proceeding be determined en banc.

I HEREBY CERTIFY THE FOREGOING IS A TRUE COPY OF THE ORIGINAL COURT ORDER.

JAMES BIRK HOLD, CLERK

cc: Hon. David Seth Walker, Senior Judge  
Paul C. Helm, APD  
Danilo Cruz-Carino, AAG

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING  
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

C.T.,	)	
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Appellant,	)	
	)	
v.	)	Case No. 2D04-3049
	)	
STATE OF FLORIDA,	)	
	)	
Appellee.	)	
_____	)	

Opinion filed April 27, 2005.

Appeal from the Circuit Court for Pasco  
County; David Seth Walker, Senior Judge.

James Marion Moorman, Public Defender,  
and Paul C. Helm, Assistant Public  
Defender, Bartow, for Appellant.

Charles J. Crist, Jr., Attorney General,  
Tallahassee, and Danilo Cruz-Carino,  
Assistant Attorney General, Tampa, for  
Appellee.

EN BANC

SALCINES, Judge.

C.T. appeals from an order of adjudication of delinquency and disposition  
for the offenses of first-degree misdemeanor battery and second-degree misdemeanor

criminal mischief. We affirm without discussion the adjudication of delinquency and the disposition for the battery. We also affirm the six-month term of probation imposed for the second-degree misdemeanor criminal mischief but write to explain why we must recede from this court's decision in S.F. v. State, 799 So. 2d 330 (Fla. 2d DCA 2001).

In that case, this court reversed an order placing S.F. on community control for an indefinite period of time and explained: "The order placing S.F. on community control could not be for a period greater than sixty days, the maximum comparable adult sanction." Id. at 330. In S.F. we relied, in part, on a decision of the First District which appeared to support such a conclusion. See J.P.C. v. State, 773 So. 2d 112 (Fla. 1st DCA 2000). However, our reliance on J.P.C. was misplaced. The effective statutory provision governing the powers of disposition in delinquency proceedings, in both S.F. and the present case, allows for the imposition of a six-month term of supervision for a second-degree misdemeanor. See § 985.231(1)(a)(1)(a), Fla. Stat. (2000, 2003). Indeed, the version of the statute applicable to C.T. states:

If supervision or a program of community service is ordered by the court, the duration of such supervision or program must be consistent with any treatment and rehabilitation needs identified for the child and may not exceed the term for which sentence could be imposed if the child were committed for the offense, except that the duration of such supervision or program for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months.

§ 985.231(1)(a)(1)(a), Fla. Stat. (2003) (emphasis added).

Accordingly, to the extent that S.F., 799 So. 2d 330, contravenes section 985.231(1)(a)(1)(a), we recede.

Affirmed.

ALTENBERND, C.J., and FULMER, WHATLEY, NORTHCUTT, CASANUEVA, STRINGER, DAVIS, SILBERMAN, KELLY, CANADY, VILLANTI, WALLACE, and LAROSE, JJ., Concur.