

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

STATE OF FLORIDA,

Appellant,

v.

Case No. 5D16-351

C.S.F., A CHILD,

Appellee.

_____ /

Opinion filed October 28, 2016

Appeal from the Circuit Court
for Orange County,
Sally D.M. Kest, Judge.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Deborah A. Cheesman,
Assistant Attorney General, Daytona
Beach, for Appellant.

James S. Purdy, Public Defender, and Jeri
M. Delgado, Assistant Public Defender,
Daytona Beach, for Appellee.

EDWARDS, J.

C.S.F. was detained at a CVS store when an employee observed him placing a bottle of body wash in his pants. When law enforcement officers arrived, C.S.F. gave them a false name and address. Count I of the petition of delinquency charged C.S.F. with knowingly giving false information to a law enforcement officer by providing a false

name and address. Count II of the petition charged C.S.F. with the theft of the bottle of body wash. Five days prior to C.S.F.'s adjudicatory delinquency hearing, the State amended Count I, newly asserting that C.S.F. falsely identified himself to a law enforcement officer or county jail employee. Count II was not amended. The trial court erred in granting C.S.F.'s motion to dismiss amended Count I, as the State was authorized to amend the charges pursuant to Florida Rule of Juvenile Procedure 8.035(d). C.S.F. cannot and did not demonstrate prejudice given the substantially similar factual and legal nature of the charges set forth in Count I.¹ Accordingly, we reverse and remand with instructions to the trial court to reinstate Count I of the amended petition of delinquency and for further proceedings in accordance with this opinion.

REVERSED AND REMANDED.

SAWAYA and TORPY, JJ., concur.

¹ Even if C.S.F. had demonstrated that the amendment prejudiced him, rule 8.035(d) provides for a continuance, rather than dismissal, as the remedy.