

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

J.R., A CHILD,

Petitioner,

v.

Case No. 5D19-3456
CORRECTED

STATE OF FLORIDA AND ADRIAN
MATHENA, SUPERINTENDENT OF
THE ORANGE REGIONAL JUVENILE
DETENTION CENTER,

Respondents.

_____ /

Opinion filed December 9, 2019

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

Robert Wesley, Public Defender, and
Meghan Kircher, Assistant Public
Defender, Orlando, for Petitioner.

Ashley Moody, Attorney General,
Tallahassee, and Wesley Heidt,
Assistant Attorney General, Daytona
Beach, for Respondent, State of Florida.

No Appearance for other Respondent.

WALLIS, J.

J.R., a child, petitions this Court for writ of habeas corpus, alleging that he is being unlawfully detained in secure detention. We grant the petition.

J.R. was arrested on November 19, 2019, on charges of battery with domestic violence and tampering with a witness to hinder communication to a law enforcement officer. At J.R.'s arraignment on November 20, 2019, the trial court noted that J.R. scored five points on the Detention Risk Assessment Instrument (DRAI), which is not enough to justify secure detention without a written statement of clear and convincing reasons. J.R.'s mother requested at the arraignment that J.R. be released to respite care. However, the trial court was informed that the youth shelter refused to accommodate J.R. Consequently, the trial court ordered J.R.'s release to "Parent/Guardian/Youth Shelter based on domestic violence in the home" and stated that "if there are no beds available at the youth shelter, the youth is to remain detained at Orange Regional Juvenile Detention Center (ORJDC) in respite care."

However, J.R.'s counsel indicates that although J.R. is categorized as being held in respite care at the Detention Center, he is currently being held under the same conditions as "secure detention." Based on counsel's representations to this Court, this placement is likely more restrictive than what is legally permissible according to the DRAI results. Moreover, the trial court's findings in the release order are insufficient for J.R.'s confinement in secured detention pursuant to section 985.255(2), Florida Statutes. Therefore, we grant the petition and direct the trial court to hold an evidentiary hearing to determine the nature of J.R.'s detention. If counsel's representations are accurate, then the trial court is directed to either enter a written order in accordance with section 985.255(2) or order J.R.'s release from secure detention by 5:00 p.m. on the second business day following the date of issuance of this opinion. See D.F. v. House, 10 So. 3d 694, 695 (Fla. 1st DCA 2009).

PETITION GRANTED.

EDWARDS and EISNAUGLE, JJ., concur.