

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.N., A CHILD,

Petitioner,

v.

Case No. 5D19-3578

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

Respondents.

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Opinion filed December 12, 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.N., a child, petitions this Court for writ of habeas corpus, alleging that she is being unlawfully detained in secure detention. We grant the petition.

J.N. was arrested on December 2, 2019, on charges of battery with domestic violence. J.N. scored three 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. At J.N.'s arraignment on December 3, 2019, even after being informed by the court that the only placement available for J.N. would likely be the detention center, J.N.'s mother, the victim of the domestic violence, stated that she did not want J.N. to be released into her care. Consequently, the trial court ordered J.N.'s release to Youth Shelter based on domestic violence in the home and stated that if there are no beds available at the Youth Shelter, J.N. is to remain detained at the detention center in respite care.

However, J.N.'s counsel indicates that although J.N. is categorized as being held in respite care at the detention center, she 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, while section 985.255(2), Florida Statutes (2019), provides for the detention of a child charged with domestic violence, the trial court must make specific written findings that respite care is not available and that secure detention is necessary to protect the victim from injury. The trial court's findings in the release order are insufficient for J.N.'s confinement in secured detention pursuant to section 985.255(2).

Therefore, we grant the petition and direct the trial court to hold an evidentiary hearing to determine the nature of J.N.'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.N.'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. Housel,
10 So. 3d 694, 695 (Fla. 1st DCA 2009).

PETITION GRANTED.

EISNAUGLE and SASSO, JJ., concur.