

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. 5D19-3768

J.J.R., A CHILD ,

Appellee.

_____ /

Opinion filed September 25, 2020

Appeal from the Circuit Court
for Orange County,
Timothy R. Shea, Judge.

Ashley Moody, Attorney General,
Tallahassee, and Allison Leigh Morris,
Assistant Attorney General, Daytona
Beach, for Appellant.

James S. Purdy, Public Defender, and
Darnelle Paige Lawshe, Assistant Public
Defender, Daytona Beach, for Appellee.

PER CURIAM.

The State of Florida appeals from an order granting J.J.R.'s motion for extraordinary relief filed pursuant to Florida Rule of Juvenile Procedure 8.140.¹ We reverse.

¹ The order on review is appealable by the State. See State v. A.C., 44 So. 3d 1240 (Fla. 5th DCA 2010).

J.J.R. entered pleas of no contest to numerous delinquency charges on April 5, 2018. That same day, the trial court committed J.J.R. to the Department of Juvenile Justice in a non-secure residential program. More than a year later, J.J.R. filed a motion for extraordinary relief, ostensibly under rule 8.140(a)(2). The motion sought release from the residential commitment program to post-commitment probation. The State objected, contending that J.J.R.'s motion was untimely. Nonetheless, the trial court granted J.J.R.'s motion and this proceeding followed.

Rule 8.140 provides:

(a) Basis. On motion and upon such terms as are just, the court may relieve a party or the party's legal representative from an order, judgment, or proceeding for the following reasons:

- (1) Mistake, inadvertence, surprise, or excusable neglect.
- (2) Newly discovered evidence which by due diligence could not have been discovered in time to move for rehearing.
- (3) Fraud (intrinsic or extrinsic), misrepresentation, or other misconduct of any other party.
- (4) That the order or judgment is void.

(b) Time. The motion shall be made within a reasonable time and, for reasons (1), (2), and (3), not more than 1 year after the judgment, order, or proceeding was taken.

Under the plain language of rule 8.140, J.J.R.'s motion was time-barred and the trial court erred in granting the motion. Thus, we reverse the trial court's order.

REVERSED and REMANDED.

ORFINGER and LAMBERT, JJ., concur.
EISNAUGLE, J., concurs in result only.