

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FIFTH DISTRICT

JULY TERM 2003

M.A.W., A CHILD,

Appellant,

v.

Case No. 5D02-1628

STATE OF FLORIDA,

Appellee.

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Opinion filed November 21, 2003

Appeal from the Circuit Court  
for Seminole County,  
Lawrence V. Johnston, Senior Judge.

Nery G. Winter, Orlando, for Appellant.

No appearance for Appellee.

ORFINGER, J.

M.A.W., a child, appeals the trial court's order finding him guilty of three counts of third-degree felony battery, but withholding the adjudication of delinquency. While the evidence of M.A.W.'s guilt was in conflict, the trial court's finding of guilt is supported by competent, substantial evidence. However, we do conclude that the trial court erred in ordering M.A.W.'s family to undergo a psychological evaluation and to avoid any contact with the victims or their families.

Before a court may order sanctions against the parents or guardian of a delinquent child, a petition for parental sanctions must be served on the parents or guardian in accordance with Florida Rule of Juvenile Procedure 8.031. That was not done here. Further,

such an order would be inappropriate when, as here, adjudication of delinquency is withheld.

See § 985.204, Fla. Stat. (2002).<sup>1</sup>

We affirm the order under review, but remand this matter to the trial court with directions to strike that portion of the order that requires M.A.W.'s family (but not M.A.W.) to submit to a psychological evaluation and to refrain from contact with the victims or their families.

AFFIRMED IN PART, REVERSED IN PART AND REMANDED.

SAWAYA, C.J. and MONACO, J., concur.

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<sup>1</sup>In full, section 985.204, provides:

In carrying out the provisions of this chapter, the court may order the parent or legal guardian of a child adjudicated dependent, a child in need of services, or a delinquent child to attend a course of instruction in parenting skills, to accept counseling, or to receive other assistance from any agency in the community which notifies the clerk of the court of the availability of its services. Where appropriate, the court shall order both parents or guardians to receive such parental assistance.