

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

JULY TERM 2006

E.D.C., A CHILD,

Petitioner,

v.

Case No. 5D06-3119

STATE OF FLORIDA,

Respondent.

Opinion filed September 8, 2006

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

James S. Purdy, Public Defender, and
Marvin Clegg, Assistant Public Defender,
Daytona Beach, for Petitioner.

Charles J. Crist, Jr. Attorney General,
Tallahassee and Rebecca Rock
McGuigan, Assistant Attorney General,
Daytona Beach, for Respondent.

PER CURIAM.

E.D.C., a child, seeks a writ of habeas corpus, claiming that he was unlawfully committed to the Department of Juvenile Justice. E.D.C. alleges that the lower court set aside his lawful term of juvenile probation, and committed him to a level 4 program, even though no new affidavit of violation of probation was filed. The state concedes the double jeopardy violation. Cf. N.H. v. State, 723 So. 2d 889 (Fla. 5th DCA 1998); W.E. v. State, 658 So. 2d 1177 (Fla. 2d DCA 1995). To revoke juvenile probation, the proper

procedure must be followed. See generally Fla. R. Juv. P. 8.120(a). We therefore grant the petition and order that petitioner be released from commitment and reinstated to probation. This is without prejudice to initiate proper revocation proceedings.

PETITION GRANTED.

THOMPSON, PALMER, and ORFINGER, JJ., concur.