

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

K.R., a child,

Appellant,

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED.

v.

CASE NO. 1D06-5915

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed August 31, 2007.

An appeal from the Circuit Court for Santa Rosa County.
Marci L. Goodman, Judge.

Nancy A. Daniels, Public Defender, and David P. Gauldin, Assistant Public Defender,
Tallahassee, Attorneys for Appellant.

Bill McCollum, Attorney General; Thomas Winokur and Heather Flanagan Ross,
Assistant Attorneys General, Tallahassee, for Appellee.

PER CURIAM.

The State concedes that the trial court erred by disregarding the recommendation of the Department of Juvenile Justice that Appellant remain on probation. Instead, the trial court adjudicated Appellant delinquent and committed

him to a moderate risk facility, and failed to state its reasons on the record for deviating from the Department's recommendation. See § 985.23(3)(c), Fla. Stat. (2006). Additionally, it failed to reference the characteristics of a moderate risk placement vis-a-vis Appellant's needs. Failure to do so constitutes reversible error. See C.C.B. v. State, 828 So. 2d 429, 431 (Fla. 1st DCA 2002 (explaining "[t]he trial court must not only state its reasons for disregarding the recommended restrictiveness level on the record, the reasons must also be supported by a preponderance of the evidence and must make reference to the characteristics of the restrictiveness level vis-a-vis the needs of the child.")). Accordingly, we reverse the disposition order and remand for a new disposition hearing. C.M.K. v. State, 855 So. 2d 1234 (Fla. 1st DCA 2003).

REVERSED and REMANDED.

BENTON, HAWKES and THOMAS, JJ., CONCUR.