

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

D.A.H., a child,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D15-2645

[March 8, 2017]

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Stacy M. Ross, Judge; L.T. Case No. 14-4044DLB.

Carey Haughwout, Public Defender, and Virginia Murphy, West Palm Beach, Assistant Public Defender, West Palm Beach, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Matthew Steven Ocksrider, West Palm Beach, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

Appellant D.A.H. challenges his juvenile disposition, in which the trial court departed upwards from the Department of Juvenile Justice (“DJJ”) recommended disposition of probation and committed him to a non-secure residential program, without requesting a restrictiveness level recommendation for this commitment from DJJ. The State concedes that this was reversible error. *See E.A.R. v. State*, 4 So. 3d 614 (Fla. 2009); *D.R. v. State*, 178 So. 3d 478, 479 (Fla. 4th DCA 2015). We find that the issue was properly preserved. *See H.D. v. Shore*, 134 So. 3d 1062, 1063 (Fla. 4th DCA 2013); *A.L.B. v. State*, 23 So. 3d 190 (Fla. 5th DCA 2009). We therefore reverse for a new disposition hearing.

Reversed and remanded.

WARNER, GERBER and KUNTZ, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.