

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING  
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

E.O.R.,	)	
	)	
Appellant,	)	
	)	
v.	)	Case No. 2D01-5568
	)	
STATE OF FLORIDA,	)	
	)	
Appellee.	)	
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Opinion filed December 18, 2002.

Appeal from the Circuit Court  
for Lee County;  
John S. Carlin, Judge.

James Marion Moorman, Public  
Defender, and Allyn M. Giambalvo,  
Assistant Public Defender, Bartow,  
for Appellant.

Richard E. Doran, Attorney General,  
Tallahassee, and Anne S. Weiner,  
Assistant Attorney General, Tampa,  
for Appellee.

KELLY, Judge.

E.O.R. appeals from the order adjudicating him guilty of interference with a school function and placing him on probation. He argues, and the State concedes, that the trial court erred in sentencing him to an indefinite term of probation. He also

argues that he could not be sentenced to more than sixty days, the maximum adult sentence for a second-degree misdemeanor. We affirm E.O.R.'s adjudication of guilt, but reverse the imposition of an indefinite term of probation.

An indefinite term of probation may only be imposed if adjudication is withheld. S.R.A. v. State, 766 So. 2d 277 (Fla. 4th DCA 2000) (holding that where adjudication is withheld, chapter 985 permits an indeterminate community control sentence until the child turns nineteen). If a child is adjudicated, normally the duration of his supervision may not exceed the maximum term that an adult may serve for the same offense. Id. at 279. Sixty days is the maximum term for an adult serving a sentence for a second-degree misdemeanor. § 775.082(4)(b), Fla. Stat. (2001). However, section 985.231(1)(a)(1.)(a.), Florida Statutes (2001),<sup>1</sup> allows the court to sentence an adjudicated child to a maximum of six months of supervision for a second-degree misdemeanor.

Accordingly, we reverse and remand to the trial court. If E.O.R. has not yet begun his probation pending appeal, the trial court must impose a definite term of probation, not exceeding six months. If E.O.R. has been under supervision for this

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<sup>1</sup> Section 985.231(1)(a)(1.)(a.), Florida Statutes (2001), states in pertinent part:

If supervision or a program of community service is ordered by the court, the duration of such supervision or program must be consistent with any treatment and rehabilitation needs identified for the child and may not exceed the term for which sentence could be imposed if the child were committed for the offense, except that the duration of such supervision or program for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months.

offense from the time the sentence was imposed to the present, he is entitled to immediate termination of his supervision.

Reversed and remanded.

ALTENBERND and FULMER, JJ., Concur.