

Third District Court of Appeal

State of Florida

Opinion filed December 31, 2019.

No. 3D19-2508

Lower Tribunal Nos. 19-1418, 19-1481B, 19-1515B, 19-1403B, 19-1951,
19-2275A

S.B.,

Petitioner,

vs.

El Fance, etc., et al.,

Respondents.

A Case of Original Jurisdiction – Habeas Corpus.

Carlos J. Martinez, Public Defender, and John Eddy Morrison, Assistant Public Defender, for petitioner.

Ashley Moody, Attorney General, and Richard L. Polin, Assistant Attorney General, for respondent State of Florida.

Before EMAS, C.J., GORDO and LOBREE, JJ.

PER CURIAM.

UPON PARTIAL CONFESSION OF ERROR

S.B., a juvenile, petitions this court for a writ of habeas corpus, contending that he is being unlawfully detained in secure detention where his risk assessment

instrument (RAI) score would not allow for such, in the absence of mandated statutory findings. We grant the petition.

On December 2, 2019, a juvenile probation officer submitted an affidavit of violation of conditions of supervised release, alleging that on November 30, 2019 an alert concerning an ankle monitor strap was issued, and on December 2, 2019, a home visit was conducted where a GPS monitor with strap cut was retrieved. This was alleged to be the fourth time S.B. has cut off a GPS monitor and absconded. On December 10, 2019, the parties were in court and the then-presiding judge permitted S.B. to remain in supervised release detention with electronic monitoring, but sternly admonished him that if he took the bracelet off he would be given 15 days in detention, plus additional days for each day that he was missing from home. Thereafter, a successor trial judge ordered secure detention and appears to have held S.B. in indirect criminal contempt for another violation of his pretrial supervised release detention. However, S.B. was never served with any rule to show cause or given notice of any contempt hearing, and there was no evidence directly before the court on which it could make any findings.

Over the past year, S.B. has been charged in at least six cases with the commission of multiple burglaries and other offenses. Throughout this period, he has been released pending disposition of the proceedings, subject to monitoring by an ankle bracelet. The RAI before the trial court showed that S.B. scored 12 points,

and a score of 13 points or more is needed for secure detention absent other statutory authorization. A trial court is required to provide clear and convincing, written reasons if it orders a more restrictive placement than indicated by the RAI. See § 985.255(2), (3)(b), Fla. Stat. (2019); T.D.S. v. State, 922 So.2d 346 (Fla. 5th DCA 2006); D.B. v. State, 848 So. 2d 1219 (Fla. 3d DCA 2003). Accordingly, the petition for writ of habeas corpus is hereby granted. The circuit court shall immediately release S.B. from secure detention. It may revisit the issue and enter appropriate written findings that would support S.B.'s secure detention if it is again ordered. See id.