

# Third District Court of Appeal

## State of Florida

Opinion filed June 17, 2020.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D19-2139  
Lower Tribunal No. 18-2292

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**A.H., a juvenile,**  
Appellant,

vs.

**The State of Florida,**  
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Orlando A. Prescott, Judge.

Carlos J. Martinez, Public Defender, and Robert Kalter, Assistant Public Defender, for appellant.

Ashley Moody, Attorney General, and Sandra Lipman, Assistant Attorney General, for appellee.

Before SCALES, LINDSEY, and HENDON, JJ.

PER CURIAM.

Appellant A.H., a juvenile, was charged with criminal mischief with \$1000.00 or more in damage in violation of section 806.13(1)(b)(3), Florida Statutes, a third-degree felony but pleaded guilty to the lesser included offense of criminal mischief greater than \$200.00 and less than \$1000.00. On appeal, Appellant contends the trial court abused its discretion by ordering Appellant to wear an electronic monitoring device for 30 days. We affirm.

At the disposition hearing, the trial court withheld adjudication and placed Appellant on probation with the understanding that the court would consider early termination after one year. Pursuant to the Department of Juvenile Justice's ("DJJ") recommendation, the court imposed the following special conditions of the probation that required Appellant to: (1) attend school at the Associate Marine Institute; (2) be home by 7:00 p.m.; (3) live with his grandmother; (4) perform 25 hours of community service; (5) attend anger management and substance abuse therapy; and (6) not change his address without permission. Although DJJ did not recommend electronic monitoring, upon the trial court's suggestion, DJJ agreed stating: "Okay, that will be good."<sup>1</sup>

Our standard of review of a trial court's imposition of special conditions of probation is for an abuse of discretion. See J.R.M. v. State, 228 So. 3d 1147, 1149

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<sup>1</sup> Appellant waived a written predisposition report prepared by DJJ and instead agreed to a disposition by the trial judge from the bench.

(Fla. 4th DCA 2017) (citing Spano v. State, 60 So. 3d 1108, 1109 (Fla. 4th DCA 2011)).

At the time of disposition, Appellant had two other pending cases and had previously been the subject of two pick-up orders. Further, the 30-day time period was only until the next court hearing on Appellant's two other pending cases. Finding no abuse of discretion, we affirm. See B.K.A. v. State, 122 So. 3d 928, 930 (Fla. 1st DCA 2013) ("Probation is *not* a restrictiveness level because it is a limitation on the freedom of the child 'in lieu of commitment to the custody of the [D]epartment.'" (citing § 985.03(44), Fla. Stat.)).

Affirmed.