

HELPFUL FLORIDA JUVENILE CASES THAT YOU NEED TO KNOW FROM THE 2007 – 2008 YEAR

1. Arraignment

- a. Arraignment is a critical state that requires the child's presence
J.R. v. State, 953 So. 2d 690 (1st DCA April 2007)

2. Behavior Order Violations

- a. Child must object to the behavior order at the time of its entry
M.M. v. State, 2007 WL 4352776 (5th DCA Dec. 2007)
- b. Child can only be detained for five or fifteen days for one order that contains multiple violations
J.D. v. State, 954 So. 2d 93 (5th DCA April 2007)
- c. There is no statutory authority for behavior orders
T.W.L. v. State, 950 So. 2d 1290 (5th DCA March 2007)

3. Child Hearsay Statements

- Court must make an inquiry and make specific finding that the child hearsay statements were reliable
N.C. v. State, 947 So. 2d 1201 (1st DCA January 2007)

4. Closing Arguments

- The child is entitled to opening and closing argument if no witnesses are put on the stand other than the child
C.H. v. State, 2007 WL 4206791 (1st DCA Nov. 2007)

5. Court Costs/Attorney's fees

- a. Court must give notice to the child of the right to contest attorney's fees
J.F. v. State, 961 So. 2d 991 (5th DCA June 2007)
- b. Court must take testimony and hear evidence to establish PD lien
R.R. v. State, 956 So. 2d 557 (5th DCA May 2007)

6. Delegation of Authority

- Court cannot order DJJ to make recommendations as a condition of probation
Q.M. v. State, 2007 WL 4244378 (1st DCA Dec. 2007)

7. Detention

- a. In cases involving minimum mandatory for firearms, the court has no discretion to waive or give credit for time served
State v. C.R., 959 So. 2d 1249 (2d DCA June 2007)
State of Florida v. J.Z., 957 So. 2d 45 (3rd DCA May 2007)
- b. In domestic violence cases, the court is not required to have consecutive 48 hour reviews if the child is detained
C.D. v. Vincent Vurro Florida Juvenile Detention Center, 2007 WL 1757001 (2D DCA June 2007)

8. Discovery Issues

- a. Discovery violations as to witnesses

V.L. v. State, 2007 WL 4322268 (3d DCA Dec. 2007): Court vacated the finding of guilt. The child is entitled to a new trial because excluding a defense witness as a result of a discovery violation should only occur if the court conducts a proper inquiry as to other alternatives than exclusion.

- b. Failure to Conduct Richardson Hearing
H.T. v. State, 967 So. 2d 374 (3rd DCA Oct. 2007): Court reversed for a new trial. Failure to conduct a Richardson hearing for the discovery violations about pre-Miranda statements made by the child in response to the officer's questions and not disclosed by the state was reversible error.

9. Disposition

- a. Must give more than just general objection to the DJJ deviation
E.R. v. State, 2008 WL 60011 (1st DCA Jan. 2008)
- b. Court must comply with the requirements of Florida Statute 874.03 to deviate on the basis of child being in a gang.
L.B. v. State, 965 So. 2d 1214 (1st DCA Sept. 2007)
R.C. v. State, 948 So. 2d 48 (1st DCA Jan. 2007)
- c. Court's deviation must be grounded in solid evidence
D.L.T v. State, 960 So. 2d 913 (1ST DCA July 2007): Court reversed the trial court's reason for deviation from the DJJ recommendation that the child was a drug dealer. The deviation must "identify adequate reasons, grounded in the evidence..."
D.A. v. State, 959 So. 2d 1281 (1st DCA July 2007): Court affirmed the trial court's disposition. The reasons given by the trial court for departure from DJJ's recommendation are supported by the evidence that the community need to be protected from the child (See also R.T. v. State, 9946 So. 2d 112 (1st DCA Jan. 2007), While "community protection is an appropriate reason to depart from the DJJ recommendation, the court must explain why a more restrictive program will protect the community).
- d. Child may waive his presence at the sentencing hearing
State v. G.C., 955 So. 2d 1215 (4th DCA May 2007)

10. Double Jeopardy

- a. If the charges are from the same course or conduct it is a violation
L.O.J. v. State, 2008 WL 239059 (4th DCA Jan. 30th 2008)

11. Miranda

- a. Persuasive argument in the First DCA in concurring opinion
D.S. v State, 963 So. 2d 340 (1st DCA Aug. 2007): Concurring opinion by Judge Browning stating "It is a paradox to me that minors, who are unable to legally contract in the State of Florida, except in very limited situations, are authorized to waive their Miranda rights. I think the law should be changed to provide that a minor may not waive Miranda rights unless the minor's attorney, a parent or a legal guardian consents to the waiver."

12. Motions to Suppress for Illegal Search & Seizure

- a. Fleeing alone does not give rise to search and seizure
J.D.H. v. State, 967 So. 2d 1128 (2d DCA Nov. 2007):
- b. School Searches
A.S.P. v. State, 964 So. 2d 211 (2d DCA Aug. 2007): Court reversed the trial court and held the court should have granted the child's motion to suppress stating that the school resource officer conducted an illegal search based upon some gang issues and fights during the week when the child was not a student at the school. The officer never determined if the child had

a legitimate basis on campus nor did the officer have reasonable suspicion that the child had a weapon before the officer searched the child. The motion to suppress should have been granted.

c. Pat down frisks

D.B.A. v. State, 962 So. 2d 406 (2d DCA Aug. 2007): The Court reversed. The motion to suppress should have been granted because the officer only had concerns for his safety thus only allowing a pat down frisk.

d. Anonymous Tips v. Student Informant

D.G. v. State, 961 So. 2d 1063 (3rd DCA July 2007): Court affirmed the delinquency finding stating that a school's assistant principal acting on a tip by a known student informant is enough for reasonable suspicion to conduct a search in a school setting.

C.J.S. v. State, 950 So. 2d 532 (3rd DCA March 2007): Court reversed and remanded after the State conceded error that the motion to suppress should have been granted because an anonymous tip without other evidence does not give the officer reasonable suspicion for a stop.

13. Motion to Vacate Sentence

- a.** C.T.B. v. State, 962 So. 2d 373 (5th DCA July 2007): Court vacated the sentence and released the child after the trial court sua sponte vacated the sentence of probation and committed the child to a level eight program. This action by the trial court violated double jeopardy.

14. Motion to Withdraw Plea

- a.** Court must uphold plea agreement when disposition is included or allow the child to withdraw the plea
T.H. v. State, 965 So. 2d 237 (5th DCA Sept. 2007):
- b.** Juvenile statutes do not provide for motion for 3.850
D.E.R. v. State, 2008 WL 199902 (2d DCA Jan. 2008)

15. Restitution

- a.** Court must make inquiry as to the child's ability to pay
K.T.M v. State, 2007 WL 4180870 (2d DCA Nov. 2007)
- b.** Child is entitled to be present at the restitution hearing
T.L. v. State, 967 So. 2d 421 (1st DCA Oct. 2007); I.M.v. State, 955 So. 2d 1163 (1st DCA April 2007):
- c.** Restitution should be awarded based upon the items in the charging documents
U.B. v. State, 965 So. 2d 856 (1st DCA Oct. 2007):

16. Right to Counsel

- a.** Court must make detailed inquiry or it is fundamental error
B.P. v. State, 2007 WL 4372799 (1st DCA Dec. 2007); G.T. v. State, 948 So. 2d. 900 (2d DCA Feb. 2007)

17. Substantive Case Law

- a.** Battery on Law Enforcement Officer
J.A.S.R. v. State, 967 So. 2d 1050 (5th DCA Nov. 2007): Court reversed and found the child guilty as to the lesser included offense of battery because the law enforcement officer was escorting the child's brother from the park. The officer was not engaged in the lawful performance of his duties because he was not arresting the brother not did he

have any reasonable suspicion to believe that the brother was engaged in criminal activity.

- b.** Burglary to Dwelling
J.A.S. v. State, 952 So. 2d 638 (2d DCA April 2007): Court reversed the trial court and found the child not delinquent of attempted burglary because the state did not prove the element of intent by inference. Child was outside the home, jiggled the door and was in broad daylight. The state did not prove that the child acted with stealth for intent to be presumed by circumstantial evidence.
- c.** Disruption of School Function
M.S.G v. State, 2008 WL 59995 (1st DCA Jan 2008): Court reversed the trial court. The evidence was insufficient to support the disruption of a school function because the evidence did not show that the child acted with deliberate intent to disrupt.
- d.** Grand Theft
S.A.S. v. State, 2007 WL 4355274 (2d DCA Dec. 2007); C.G.H v. State, 968 So. 2d 94 (2nd DCA Nov. 2007): Court reversed and remanded with instructions to find the lesser petit theft because testimony of purchase price of stolen item is insufficient without establishing the fair market value at the time of theft.
- e.** Improper Exhibition of Weapon
J.R. v. State, 967 So. 2d 365 (1st DCA Oct. 2007): the Court held that there was insufficient evidence to find the child delinquent because no evidence existed as to the description or existence of the knife.
- f.** Providing False Identification
L.J. v. State, 2007 WL 4482190 (3rd DCA Dec. 2007): Court affirmed the trial's court denial of the judgment of dismissal. Once the child has been arrested, the child can no longer recant the false information.
- g.** Resisting Without Violence
E.A.B. v. State, 964 So.2d 877 (2d DCA Sept. 2007): the Court reversed. A child fleeing as a passenger from a car did not constitute resisting without violence because the officer lacked reasonable suspicion that the child was committing a crime as he ordered the child to stop.
J.M. v. State, 960 So. 2d 813 (3rd DCA June 2007): Court affirmed finding of delinquency holding that when the juvenile was ordered to leave the park for safety reasons after a crowd had gathered for a fight and refused, the child resisted without violence.
- h.** Robbery and Lesser Included Offenses
N.H.M. v. State, 2008 WL 199899 (2d DCA January 2008): The Court reversed. Battery is not necessarily a lesser of the charge of robbery and the petition must specifically allege the elements of battery or it is a denial of due process. The Court further stated that the use of force does not include an intentional touch or the infliction of bodily harm without consent.

18. Writ of Habeas

- a.** Court cannot deviate from the risk assessment without sufficient reasons
K.E. v. D.J.J., 963 So. 2d 864, (1st DCA Aug. 2007)
- b.** Court must release child when picked up on custody order unless the child is held in contempt
A.K. v. Doubler, 951 So. 2d 989 (3rd DCA March 2007):
- c.** Court must stay all proceedings when the child has pending competency evaluations
M.A. v. State, 964 So. 2d 831 (4th DCA Sept. 2007):
- d.** Court must release child from detention when the child has reached the age of 19

- e. A.M. v. Kevin Housel, Superintendent, 948 So. 2d 993 (4th DCA Feb. 2007):
Court can detain the child for additional nine days if good cause is given
E.D. v. State, 966 So. 2d 994 (5th DCA Oct. 2007)

19. Writ of Prohibition

- a. J.R. v. State, 959 So. 2d 833 (4th DCA July 2007): Court granted writ stating that the trial court's comments that the child wearing all black with black fingernails could be compared to students that caused the Columbine tragedy was reasonable to believe he could not receive a fair sentence.