

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JANUARY TERM 2009

D.P., a Child,

Petitioner,

v.

Case No. 5D09-839

STATE OF FLORIDA,

Respondent.

/

Opinion filed April 24, 2009

Petition for Writ of Habeas Corpus,
A Case of Original Jurisdiction.
Anthony H. Johnson, Judge.

Robert Wesley, Public Defender, and
Rosemarie Farrell, Assistant Public
Defender, Orlando, for Petitioner.

No Appearance for Respondent.

PER CURIAM

We granted by unpublished order the petition for writ of habeas corpus filed by D.P., a juvenile, challenging his continued secure detention, based upon an allegedly improperly scored Risk Assessment Instrument (RAI). We now write to explain the order.

D.P. is sixteen years of age and was charged with the offense of carrying a concealed firearm. Under section 3 of the RAI, he was given ten points for a third-

degree felony involving the use and possession of a firearm. He was also scored an additional three points under that same section for the aggravating circumstance of illegal possession of a firearm. This resulted in a score exceeding the twelve points necessary for secure detention. Because the firearm possession was already factored into the initial scoring of ten points, it could not be used again without impermissibly double scoring the same conduct already accounted for in the RAI. P.A.J. v. Gnat, 684 So. 2d 310 (Fla. 1st DCA 1996); D.G. v. Miles, 872 So. 2d 343 (Fla. 2d DCA 2004). Consequently, D.P. was ineligible for secure detention because he scored less than twelve points.

PETITION FOR HABEAS CORPUS GRANTED.

MONACO, EVANDER and COHEN, JJ., concur.