

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 99880

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**IN RE: D.H.  
A Minor Child**

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**JUDGMENT:  
REVERSED AND REMANDED**

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Civil Appeal from the  
Cuyahoga County Court of Common Pleas  
Juvenile Division  
Case No. DL 13101802

**BEFORE:** Stewart, A.J., Blackmon, J., and McCormack, J.

**RELEASED AND JOURNALIZED:** November 21, 2013

**ATTORNEYS FOR APPELLANT**

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**ATTORNEYS FOR APPELLEE**

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MELODY J. STEWART, A.J.:

{¶1} The court found juvenile-appellant D.H. delinquent for committing an act that committed by an adult would be a fifth-degree felony assault. It committed D.H. to the Ohio Department of Youth Services for a minimum period of two years and a maximum period not to exceed his attaining 21 years of age. In this appeal, D.H. argues that he should have been sentenced to commitment with a minimum period of six months. We have jurisdiction over this sentencing appeal under R.C. 2953.08(A)(4) because D.H. argues that the length of his commitment is contrary to law.

{¶2} When a child commits an act that would be a third-, fourth-, or fifth- degree felony if committed by an adult, the juvenile court may commit the child to the legal custody of the department of youth services for secure confinement “for an indefinite term consisting of a minimum period of six months and a maximum period not to exceed the child’s attainment of twenty-one years of age.” R.C. 2152.16(A)(1)(e). A commitment for a minimum period of two years was not permitted for acts that if committed by an adult would constitute a fifth-degree felony. The court’s disposition was contrary to law. The state concedes the court’s error.

{¶3} We therefore sustain the assignment of error and remand with instructions to order a minimum period of commitment of six months.

{¶4} This cause is reversed and remanded to the trial court for further proceedings consistent with this opinion.

It is ordered that appellant recover of appellee his costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the Cuyahoga County Court of Common Pleas — Juvenile Division to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

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MELODY J. STEWART, ADMINISTRATIVE JUDGE

PATRICIA ANN BLACKMON, J., and  
TIM McCORMACK, J., CONCUR