Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2005-284

MAY TERM, 2006

In re S.H., Juvenile	}	APPEALED FROM:
	}	
	}	Bennington Family Court
	}	
	}	DOCKET NO. 25-2-05 Bnjv

Trial Judge: Nancy Corsones

In the above-entitled cause, the Clerk will enter:

S.H. appeals from the family court=s disposition order placing her on juvenile probation until she turns eighteen or until further order of the court. She argues that the family court abused its discretion by applying the rules governing probation in criminal proceedings rather than those that apply to juvenile proceedings. We vacate the court=s order and remand for a new disposition hearing.

S.H. was adjudicated as a delinquent child in June 2005 based on the court=s finding that she committed simple assault and disorderly conduct by hitting a boy in her class with a badminton racket and scratching him. The State recommended that S.H. be placed on juvenile probation and it did not object to

S.H.=s proposal that the probationary period be of limited duration. The court indicated that it would place S.H. on probation for six months with the possibility of an earlier discharge. The State then asserted that under State v. White, 150 Vt. 132 (1988), the court could not discharge S.H. early if it imposed a Aterm probation.@ In light of this representation, the juvenile=s attorney withdrew her request for a limited term of probation. The court apparently agreed with the State=s interpretation of White, explaining to the parties that if it did not limit the probation period, S.H. could be discharged within a much shorter period of time, to her benefit. It therefore placed S.H. on probation until September 30, 2008Cthe date she turns eighteenCor until a court orders an early discharge. This appeal followed.

On appeal, S.H. argues that the court abused its discretion by failing to apply the appropriate rules in reaching its decision. She also asserts that the court misinterpreted the holding of White. The State concedes that the family court has authority to discharge the probation of a juvenile at any time. We agree.

We review the trial court=s interpretation of the law de novo. See Thompson v. Dewey=s S. Royalton, Inc., 169 Vt. 274, 276 (1999) (noting that appellate review of questions of law is nondeferential and plenary). Under 33 V.S.A. ' 5529(a)(2), the family court is authorized to place a delinquent child on probation Aunder such conditions and limitations as the court may prescribe.@ See also id. ' 5550(a) (AUpon a finding of delinquency, the court may place the juvenile on probation, subject to the supervision of the commissioner, upon such conditions as it may prescribe.@). The court has express authority to Aterminate probation and discharge the juvenile at any time.@ Id. ' 5561(a). Although immaterial here in light of the authority cited above, we note that in White the Court merely recognized that Awhere the period of probation is prescribed, discharge from probation is automatic upon the expiration of the period,@ i.e., no additional action by the court is required. 150 Vt. at 134. We did not hold that if a court imposes a specific probationary term, it thereby loses the authority to discharge a probationer early. See 28 V.S.A. ' 251 (trial court may terminate period of probation and discharge person at any time if such termination is warranted by conduct of offender and ends of justice). It appears from the record that the trial court misapprehended the appropriate legal standard and we therefore vacate the court=s order and remand for a new disposition hearing not inconsistent with the authority granted to the family court under 33 V.S.A. ' 5561(a).

Vacated and remanded for a new disposition hearing.

BY THE COURT:

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Denise R. Johnson, Associate Justice

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Marilyn S. Skoglund, Associate Justice

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Brian L. Burgess, Associate Justice