of the record. *See generally Dailey v. State*, 46 So. 3d 647 (Fla. 1st DCA 2010) (explaining that appellate court will only consider claims of ineffective assistance of counsel on direct appeal "when the ineffectiveness is obvious on the face of the appellate record, the prejudice caused by the conduct is indisputable, and a tactical explanation for the conduct is inconceivable") (quoting *Corzo v. State*, 806 So. 2d 642, 645 (Fla. 2d DCA 2002)); *cf. Rios v. State*, 730 So. 2d 831 (Fla. 3d DCA 1999) (concluding on direct appeal that defense counsel's erroneous stipulation that defendant was violent career criminal constituted ineffective assistance because without stipulation defendant could not have been convicted of possession of concealed weapon by violent career criminal).

In sum, we affirm Appellant's conviction and sentence for sexual battery by person in a position of familial or custodial authority, but reverse Appellant's conviction for lewd or lascivious battery and remand with instructions that the trial court vacate the latter conviction.

AFFIRMED in part; REVERSED in part; REMANDED with instructions. (CLARK, WETHERELL, and MAKAR, JJ., CONCUR.)

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[1]After Appellant's trial counsel raised the double jeopardy issue at the sentencing hearing, the prosecutor replied:

> I can address that real quick. I believe the law would be here that . . . he was found guilty of both, but he should not be sentenced on both. As to Count 2, Count 2 exists if anything ever happens to Count 1, but he would not—should not be sentenced on it, and my thought is I would not include that on the score sheet, because I do believe that that count, in this factual situation, is subsumed in what was found by the jury in Count 1. So my suggestion is that . . . goes in abeyance, and only would arise if anything ever happened to Count 1.

When asked by the trial court whether "that" was consistent with his understanding, Appellant's trial counsel replied, "It is, Your Honor."

* * *

Licensing—Board of Pharmacy erred in revoking professional license where licensee did not receive notice of meeting at which Board revoked license

NARESH KUMAR JAIN, R.PH., Appellant, v. FLORIDA DEPARTMENT OF HEALTH, BOARD OF PHARMACY, Appellee. 1st District. Case No. 1D12-2634. Opinion filed June 10, 2013. An appeal from an order from the Department of Health. Cynthia Griffin, Chair. Counsel: George F. Indest, III, Lance O. Leider, and Michael L. Smith of the Health Law Firm, Altamonte Springs, for Appellant. Therese A. Savona, Tallahassee, for Appellee.

(PER CURIAM.) This appeal is from a final order of the Florida Board of Pharmacy ("Board") revoking the appellant's professional license. The Department of Health properly concedes that the order must be reversed, and the matter remanded for a new hearing, because Appellant did not receive notice of the April 11, 2012, meeting at which the Board revoked his license. *See Butler v. State Bd. of Nursing*, 107 So. 3d 1184 (Fla. 1st DCA 2013) (reversing administrative order revoking state nursing license where board failed to properly notify appellant of hearing).

REVERSED and REMANDED. (CLARK, ROWE, and MARSTILLER, JJ., CONCUR.)

* * *

Criminal law—Juveniles—Sentencing—Trial court erred in committing juvenile to high-risk juvenile facility for a misdemeanor

D.H., a child, v. STATE OF FLORIDA, Appellee. 1st District. Case No. 1D12-4806. Opinion filed June 10, 2013. An appeal from the Circuit Court for Leon County. Jackie L. Fulford, Judge. Counsel: Nancy A. Daniels, Public Defender, and Archie F. Gardner, Jr., Assistant Public Defender, Tallahassee, for D.H. Pamela Jo Bondi, Attorney General, Meredith Hinshelwood, Assistant Attorney General, and Trisha Meggs Pate, Bureau Chief, Criminal Appeals, Tallahassee, for Appellee.

(VAN NORTWICK, J.) In this appeal, D.H., a juvenile, argues that (1) the trial court erred by denying his motion to disqualify the trial judge; and (2) in the disposition order, the trial court impermissibly committed him to a high-risk juvenile facility for a misdemeanor offense. We affirm the trial court's denial of the motion to disqualify without further comment. We find merit, however, in D.H.'s second issue. Accordingly, we reverse and remand for further proceedings.

In Case Number CJ-538, D.H. was charged with grand theft of a motor vehicle, a third degree felony (Count I), and misdemeanor battery (Count II). Following a bench trial, D.H. was found not guilty of Count I and guilty of Count II. The trial court scheduled the case for a disposition hearing and requested the Department of Juvenile Justice (the Department) to complete a Pre-Disposition Report (PDR). The PDR considered a number of factors, including that D.H. was being held pursuant to a juvenile detention order pending his commitment to a high-risk residential program in accordance with an earlier delinquency disposition. Ultimately, the PDR recommended committing D.H. to a high-risk facility followed by conditional release, to run concurrent with the terms of his previous adjudications. The trial court agreed with the Department's recommendation that it was in D.H.'s best interest, considered in light of the public safety, to commit him to a high-risk residential facility, concurrent with the dispositions already administered. The trial court denied defense counsel's objection to the disposition and this appeal ensued.

An illegal sentence is one which does not comply with Florida Statutes. *Moore v. State*, 768 So. 2d 1140, 1143 (Fla. 1st DCA 2000); *see also Hinson v. State*, 709 So. 2d 629, 630 (Fla. 1st DCA 1998) ("[A] sentence that exceeds the maximum allowed by statute is an illegal sentence."). Section 985.441(1)(b), Florida Statutes (2012), empowers a trial court to commit to the supervision of the Department a juvenile that is adjudicated delinquent. In this statute, however, the Legislature has limited the scope of a trial court's commitment authority, as follows:

> Notwithstanding subsection (1), the court having jurisdiction over an adjudicated delinquent child whose underlying offense was a misdemeanor may not commit the child for any misdemeanor offense or any probation violation at a restrictiveness level other than minimum-risk nonresidential unless the probation violation is a new violation of law constituting a felony. However, the court may commit such child to a low-risk or moderate-risk residential placement if:
>
> (a) The child has previously been adjudicated for a felony offense;
>
> (b) The child has been adjudicated or had adjudication withheld for three or more misdemeanor offenses;
>
> (c) The child is before the court for disposition for a violation of s. 800.03, s. 806.031, or s. 828.12; or
>
> (d) The court finds by a preponderance of the evidence that the protection of the public requires such placement or that the particular needs of the child would be best served by such placement. Such finding must be in writing.

§ 985.441(2), Fla. Stat. (2012).

Here, in Case Number CJ-538, D.H. was found guilty only of misdemeanor battery. Pursuant to section 985.441(2), he could be committed, at the most, to a moderate or low-risk facility. Thus, the trial court's order committing D.H. to a high-risk restrictiveness level was contrary to law.

Accordingly, we REVERSE and REMAND to allow the trial court to enter a disposition order in compliance with Florida Statutes. (ROBERTS, J., CONCURS, and THOMAS, J., DISSENTS.)

* * *

Child support—Administrative support modification order—Administrative law judge erred in failing to include dental insurance costs in support calculation—Child care costs—Statutory calculation procedure requires that the full cost of child care be taken into account only after basic support obligation has been calculated—On remand, ALJ to calculate retroactive child support using father's income for periods between date of the proposed administrative order to modify administrative support order and the date of the order on appeal, and to apply the difference between this amount and the amount actually paid to the father's retroactive support balance

MATTHEW R. HOOVER, Appellant, v. FLORIDA DEPARTMENT OF REVENUE on behalf of ASHLEY D. MITCHELL, Appellee. 1st District. Case No. 1D12-2686.