

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D13630  
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Submitted - January 2, 2007

HOWARD MILLER, J.P.  
ROBERT A. SPOLZINO  
DAVID S. RITTER  
MARK C. DILLON, JJ.

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2005-11217

DECISION & ORDER

In the Matter of Nicholas R. (Anonymous),  
appellant.

(Docket No. D-14789/03)

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Kenneth M. Tuccillo, Hastings-on-Hudson, N.Y., for appellant.

Christine Malafi, County Attorney, Central Islip, N.Y. (James A. Widirstky of  
counsel), for respondent.

In a juvenile delinquency proceeding pursuant to Family Court Act article 3, the appeal is from an order of fact-finding and disposition of the Family Court, Suffolk County (Freundlich, J.), entered October 28, 2005, which, inter alia, upon his admission, (1) revoked so much of a prior order of fact-finding and disposition dated October 29, 2003, as, upon finding that he had committed an act which, if committed by an adult, would have constituted the crime of criminal trespass in the second degree, placed the appellant on probation for a period of two years, (2) found that the appellant had violated a condition of probation, and (3) placed him in custody of the New York State Office of Children and Family Services in a limited secure facility for a period of eight months.

ORDERED that the appeal from so much of the order of fact-finding and disposition dated October 28, 2005, as placed the appellant in the custody of the New York State Office of Children and Family Services in a limited secure facility for a period of eight months is dismissed as academic, without costs or disbursements; and it is further,

ORDERED that the order of fact-finding and disposition dated October 28, 2005, is

January 30, 2007

Page 1.

MATTER OF R. (ANONYMOUS), NICHOLAS

affirmed insofar as reviewed, without costs or disbursements.

The appeal from so much of the order of fact-finding and disposition as committed the appellant to the custody of the New York State Office of Children and Family Services for a period of eight months for placement in a limited secure facility must be dismissed as academic since the placement period has expired (*see Matter of Brandon S.*, 305 AD2d 609; *Matter of Horton v Travis*, 18 AD3d 922; *People v Whitehead*, 159 AD2d 741).

The appellant has not preserved for appellate review his contention that the allocation containing his admission was defective because he did not move to withdraw it on the grounds now asserted (*see Family Court Act* § 321.4; CPL 220.60; *Matter of Brandon S.*, 305 AD2d 609).

MILLER, J.P., SPOLZINO, RITTER and DILLON, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court