

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

D17508  
X/hu

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - December 7, 2007

FRED T. SANTUCCI, J.P.  
HOWARD MILLER  
ROBERT A. LIFSON  
JOSEPH COVELLO, JJ.

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2007-06672  
2007-08508

DECISION & ORDER

In the Matter of Keiana D. (Anonymous), respondent;  
Presentment Agency, appellant.

(Docket No. D-35877-06)

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Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Pamela Seider Dolgow  
and Suzanne K. Colt of counsel), for appellant.

Guy Oksenhendler, New York, N.Y., for respondent.

In a juvenile delinquency proceeding pursuant to Family Court Act article 3, the Presentment Agency appeals from (1) an order of the Family Court, Kings County (Turbow, J.), dated June 14, 2007, which, after a hearing, granted that branch of the respondent's omnibus motion which was to suppress identification testimony, and (2) an order of the same court dated July 18, 2007, which, upon the prior order, dismissed the petition.

ORDERED that the orders are reversed, on the law, without costs or disbursements, that branch of the respondent's omnibus motion which was to suppress identification testimony is denied, the petition is reinstated, and the matter is remitted to the Family Court, Kings County, for further proceedings consistent herewith.

January 22, 2008

MATTER OF D. (ANONYMOUS), KEIANA

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Showup procedures are permissible when, as here, they are conducted in close spatial and temporal proximity to the incident for the purpose of securing a prompt and reliable identification (see *Matter of Vanna W.*, \_\_\_\_\_AD3d\_\_\_\_\_ [2d Dept, Nov. 27, 2007]; *Matter of Jessica P.*, \_\_\_\_\_AD3d\_\_\_\_\_ [2d Dept, Nov. 27, 207]; cf. *People v Fox*, 11 AD3d 709). Contrary to the respondent's contention, the showup identification was reasonable under the circumstances and not unduly suggestive (see *Matter of Vanna W.*, \_\_\_\_\_AD3d\_\_\_\_\_ [2d Dept, Nov. 27, 2007]; *Matter of Jessica P.*, \_\_\_\_\_AD3d\_\_\_\_\_ [2d Dept, Nov. 27, 2007]; cf. *People v Chipp*, 75 NY2d 327, 335, cert denied 498 US 833; *People v Rice*, 39 AD3d 567, 568). Accordingly, the Family Court should have denied that branch of the respondent's omnibus motion which was to suppress identification testimony.

SANTUCCI, J.P., MILLER, LIFSON and COVELLO, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court