

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

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Submitted - January 29, 2008

DAVID S. RITTER, J.P.
ANITA R. FLORIO
EDWARD D. CARNI
JOHN M. LEVENTHAL, JJ.

2007-07649

DECISION & ORDER

In the Matter of Melissa B. (Anonymous), appellant.

(Docket No. D-7878-07)

Steven Banks, New York, N.Y. (Tamara A. Steckler and Claire V. Merkin of counsel), for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Edward F. X. Hart and Marta Ross of counsel), for respondent.

In a juvenile delinquency proceeding pursuant to Family Court Act article 3, the appeal is from an order of disposition of the Family Court, Queens County (Hunt, J.), dated July 11, 2007, which, upon a fact-finding order of the same court dated June 4, 2007, made upon the appellant's admission, finding that the appellant had committed acts which, if committed by an adult, would have constituted the crime of attempted assault in the third degree, adjudged her to be a juvenile delinquent and placed her on probation for a period of 12 months.

ORDERED that the order of disposition is affirmed, without costs or disbursements.

The Family Court has broad discretion as to the dispositional orders it enters. In this instance, the Family Court providently exercised its discretion in adjudicating the appellant a juvenile delinquent and then placing her on probation for 12 months. Such an adjudication was particularly appropriate in view of her relatively poor record of attendance at school and the recommendation made in the probation report that she is in need of supervision. Moreover, the appellant in this case committed a type of misconduct that warrants a determination, at the least, that she was a juvenile delinquent. That this was her first brush with the law does not entitle her to an adjudication of an

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adjournment in contemplation of dismissal (hereinafter an ACD) (*see Matter of Oneil D.*, 35 AD3d 602; *Matter of Rosario S.*, 18 AD3d 563; *Matter of Nikita P.*, 3 AD3d 499, 500-501).

We further note that an ACD is limited to a maximum period of six months. Thus, once the Family Court determined that a period of supervision longer than six months was required, the entry of an ACD was no longer an option (*see Family Ct Act* § 315.3[1]; *see Matter of Antonio C.*, 294 AD2d 123; *Matter of Raymond A.*, 136 AD2d 700).

The appellant's remaining contention is without merit.

RITTER, J.P., FLORIO, CARNI and LEVENTHAL, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court