

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

D19270  
Y/prt

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

Submitted - April 7, 2008

ROBERT A. SPOLZINO, J.P.  
RUTH C. BALKIN  
THOMAS A. DICKERSON  
ARIEL E. BELEN, JJ.

2007-06588

DECISION & ORDER

In the Matter of Xavier-Jamaal H. (Anonymous),  
appellant.

(Docket No. E-16757-06)

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Steven Banks, New York, N.Y. (Tamara Steckler and Raymond E. Rogers of counsel), for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Leonard Koerner and Ronald E. Sternberg 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 (Bogacz, J.), dated June 26, 2007, which, upon a fact-finding order of the same court dated March 26, 2007, made after a hearing, finding that the appellant committed acts which, if committed by an adult, would have constituted the crimes of criminal sexual act in the first degree and attempted criminal sexual act in the first degree, adjudged him to be a juvenile delinquent, and placed him on probation for a period of 12 months. The appeal brings up for review the order of fact-finding dated March 26, 2007.

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

Viewing the evidence in the light most favorable to the presentment agency (*see Matter of David H.*, 69 NY2d 792, 793), we find that it was legally sufficient to support the Family Court's findings. Moreover, resolution of issues of credibility is primarily a matter to be determined by the finder of fact, which saw and heard the witnesses, and its determination in this regard should be accorded great deference on appeal (*see Matter of Anthony R.*, 43 AD3d 939; *Matter of Charles*

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S., 41 AD3d 484; *Matter of Christian M.*, 37 AD3d 834). Upon the exercise of our factual review power (*cf.* CPL 470.15[5]), we are satisfied that the court's findings were not against the weight of the evidence (*see Matter of Robert P.*, 16 AD3d 512, 513; *Matter of Kevin M.*, 6 AD3d 616).

SPOLZINO, J.P., BALKIN, DICKERSON and BELEN, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court