

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

D21169
X/kmg

_____AD3d_____

Submitted - October 27, 2008

REINALDO E. RIVERA, J.P.
ROBERT A. LIFSON
RANDALL T. ENG
CHERYL E. CHAMBERS, JJ.

2007-09899
2007-09901

DECISION & ORDER

In the Matter of Aaron G. (Anonymous), appellant.

(Docket No. D-13246/07)

Yasmin Daley Duncan, Brooklyn, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Ronald E. Sternberg
and Deborah A. Brenner of counsel), for respondent..

In a juvenile delinquency proceeding pursuant to Family Court Act article 3, the appeals are from (1) a fact-finding order of the Family Court, Kings County (McLeod, J.), dated August 24, 2007, which, after a hearing, found that the appellant had committed acts which, if committed by an adult, would have constituted the crime of criminal possession of a controlled substance in the seventh degree, and (2) an order of disposition of the same court (Elkins, J.), dated September 25, 2007, which, upon the fact-finding order, adjudicated him a juvenile delinquent and placed him in the custody of the New York State Office of Children and Family Services for a period of 12 months.

ORDERED that the appeal from the fact-finding order is dismissed, without costs or disbursements, as that order was superseded by the order of disposition (*see Matter of Briona T.G.*, 47 AD3d 811); and it is further,

ORDERED that the appeal from so much of the order of disposition as placed the appellant in the custody of the New York State Office of Children and Family Services for a period of 12 months is dismissed as academic, without costs or disbursements, as the period of placement

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has expired; and it is further,

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

The appeal from so much of the order of disposition as placed the appellant in the custody of the New York State Office of Children and Family Services for a period of 12 months has been rendered academic, as the period of placement has expired (*see Matter of Isaiah P.*, 45 AD3d 772). However, because there may be collateral consequences resulting from the adjudication of delinquency, that portion of the appeal which brings up for review the fact-finding order is not academic (*id.*).

Viewing the evidence in the light most favorable to the presentment agency (*see Matter of David H.*, 69 NY2d 792), we find that it was legally sufficient to establish that the appellant committed an act which, if committed by an adult, would have constituted the crime of criminal possession of a controlled substance in the seventh degree (*see* Penal Law § 220.03). Upon our independent factual review, we are satisfied that the findings of fact were not against the weight of the evidence (*cf.* CPL 470.15[5]; *People v Romero*, 7 NY3d 633).

RIVERA, J.P., LIFSON, ENG and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court