

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

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Submitted - November 14, 2008

WILLIAM F. MASTRO, J.P.
ANITA R. FLORIO
RANDALL T. ENG
CHERYL E. CHAMBERS, JJ.

2008-02696

DECISION & ORDER

In the Matter of Victor I. (Anonymous), appellant.

(Docket No. D-07790-07)

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. (Kristin M. Helmers and Norman Corenthai 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 (Modica, J.), dated February 26, 2008, which, upon a fact-finding order of the same court dated January 7, 2008, made after a hearing, finding that the appellant had committed acts which, if committed by an adult, would have constituted the crimes of attempted assault in the third degree and menacing in the third degree, adjudged him to be a juvenile delinquent and placed him under the supervision of the New York City Department of Probation in the County of Queens for a period of one year. The appeal brings up for review the fact-finding order dated January 7, 2008.

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 establish that the appellant committed acts, which, if committed by an adult, would have constituted the crimes of attempted assault in the third degree and menacing in the third degree (*see Matter of Monay W.*, 33

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AD3d 809, 810; *Matter of Tiffany M.*, 24 AD3d 556). Moreover, in conducting an independent review of the weight of the evidence (*cf.* CPL 470.15[5]; *People v Danielson*, 9 NY3d 342), we nevertheless accord great deference to the factfinder's opportunity to view the witnesses, hear the testimony, and observe demeanor (*cf.* *People v Mateo*, 2 NY3d 383, 410, *cert denied* 542 US 946; *People v Bleakley*, 69 NY2d 490, 495). Upon reviewing the record here, we are satisfied that the findings of fact were not against the weight of the evidence (*cf.* *People v Romero*, 7 NY3d 633).

MASTRO, J.P., FLORIO, ENG and CHAMBERS, 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