

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

D21629
X/kmg

_____AD3d_____

Submitted - December 1, 2008

PETER B. SKELOS, J.P.
FRED T. SANTUCCI
WILLIAM E. McCARTHY
THOMAS A. DICKERSON, JJ.

2008-04250

DECISION & ORDER

In the Matter of Javed K. (Anonymous), appellant.

(Docket No. D-3959/08)

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. (Sharyn Rootenberg of counsel; Joshua Rog on the brief), 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 April 8, 2008, which, upon a fact-finding order of the same court dated March 5, 2008, made upon the appellant's admission, finding that he had committed an act which, if committed by an adult, would have constituted the crime of attempted robbery in the second degree, adjudged him to be a juvenile delinquent and placed him on probation for a period of 18 months.

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

Contrary to the appellant's contention, the Family Court providently exercised its discretion in finding that he was in need of supervision, adjudicating him a juvenile delinquent, and ordering an 18-month period of probation instead of granting him an adjournment in contemplation of dismissal. The Family Court has broad discretion in entering dispositional orders (*see Matter of Yasin H.*, 31 AD3d 638, 638; *Matter of Jarel S.*, 282 AD2d 681; *Matter of Naiquan T.*, 265 AD2d 331; *Matter of Tristan W.*, 258 AD2d 585; Family Ct Act § 141). The Family Court's determination in entering dispositional orders is entitled to great deference, as it had the opportunity to view the

December 23, 2008

Page 1.

MATTER OF K. (ANONYMOUS), JAVED

witnesses, hear their testimony, and observe their demeanor (*see Matter of Yasin H.*, 31 AD3d at 638; *Matter of Stephone M.H.*, 11 AD3d 464, 465; *Matter of Severn J.*, 250 AD2d 682, 683). Here, the record demonstrates that the Family Court did “consider the needs and best interests of the [appellant] as well as the need for protection of the community,” and that the Family Court ordered “the least restrictive available alternative” which was consistent with such needs and interests (Family Ct Act § 352.2[2][a]). The nature of the incident, the recommendation by the Department of Probation, and the appellant's poor school performance and attendance record support the Family Court's determination (*see Matter of Erica R.*, 55 AD3d 740; *Matter of Cindy A.*, 31 AD3d 440; *Matter of Gerald W.*, 12 AD3d 522). Moreover, the appellant was not entitled to an adjournment in contemplation of dismissal merely because this was his first “brush with the law” (*see Matter of Melissa B.*, 49 AD3d 536, 537; *Matter of Michael E.*, 48 AD3d 810, 810; *Matter of Oneil D.*, 35 AD3d 602, 602; *Matter of Yasin H.*, 31 AD3d at 638; *Matter of Isaiah I.*, 23 AD3d 469, 470; *Matter of Gerald W.*, 12 AD3d at 523; *Matter of Nikita P.*, 3 AD3d 499, 501).

SKELOS, J.P., SANTUCCI, McCARTHY and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court