

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

D22262
C/prt

_____AD3d_____

Submitted - January 29, 2009

REINALDO E. RIVERA, J.P.
JOSEPH COVELLO
JOHN M. LEVENTHAL
CHERYL E. CHAMBERS, JJ.

2008-00760

DECISION & ORDER

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

(Docket No. D-10385-07)

Zvi Ostrin, New York, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Barry P. Schwartz and
Scott Shorr 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, Kings County (Turbow, J.), dated January 15, 2008, which, upon a fact-finding order of the same court dated October 15, 2007, made after a hearing, finding that the appellant had committed an act which, if committed by an adult, would have constituted the crime of assault in the third degree, adjudged her to be a juvenile delinquent and placed her on conditional discharge for a period of 12 months with 15 hours of community service. The appeal from the order of disposition brings up for review the fact-finding order.

ORDERED that the appeal from so much of the order of disposition as placed the appellant on conditional discharge for a period of 12 months is dismissed as academic, without costs or disbursements, as that portion of the order of disposition has expired by its own terms; and it is further,

ORDERED that the order of disposition is affirmed insofar as reviewed, 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; *Matter of Tiffany D.*, 29 AD3d 693; *Matter of Nicholas A.*,

March 3, 2009

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28 AD3d 477), we find that it was legally sufficient to establish, beyond a reasonable doubt, that the appellant committed an act which, if committed by an adult, would have constituted the crime of assault in the third degree (*see* Penal Law § 120.00[1]). Moreover, upon our independent review of the record, we are satisfied that the determination was not against the weight of the evidence (*see Matter of Victor I.*, 57 AD3d 779; *Matter of Robert A.*, 57 AD3d 770).

RIVERA, J.P., COVELLO, LEVENTHAL 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