

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

D23965
T/kmg

_____AD3d_____

Submitted - June 5, 2009

WILLIAM F. MASTRO, J.P.
RANDALL T. ENG
ARIEL E. BELEN
L. PRISCILLA HALL, JJ.

2008-07142

DECISION & ORDER

In the Matter of Michael L. (Anonymous),
appellant.

(Docket No. D-02903-08)

Steven Banks, New York, N.Y. (Tamara Steckler and Patricia Colella of counsel), for
appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Larry A. Sonnenshein
and Sharyn Rootenberg 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 (Lubow, J.), dated July 22, 2008, which, upon a fact-finding order of the same court dated April 15, 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 robbery in the second degree (two counts), assault in the second degree, assault in the third degree, and attempted grand larceny in the fourth degree, adjudged him to be a juvenile delinquent and placed him on probation for a period of two years. The appeal brings up for review the fact-finding order dated April 15, 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; *cf. People v Contes*, 60 NY2d 620, 621), we find that it was legally sufficient to establish the appellant's identity as one of the individuals who assaulted and attempted to rob the complainant.

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Moreover, in fulfilling our responsibility to conduct an independent review of the weight of the evidence (*see Matter of Victor I.*, 57 AD3d 779; *Matter of Robert A.*, 57 AD3d 770; *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 (*see Matter of Victor I.*, 57 AD3d 779; *Matter of Robert A.*, 57 AD3d 770; *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 (*see Matter of Victor I.*, 57 AD3d 779; *Matter of Robert A.*, 57 AD3d 770; *cf.* *People v Romero*, 7 NY3d 633).

MASTRO, J.P., ENG, BELEN and HALL, 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