

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

D24491  
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Submitted - September 10, 2009

PETER B. SKELOS, J.P.  
JOSEPH COVELLO  
JOHN M. LEVENTHAL  
SHERI S. ROMAN, JJ.

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2008-08344  
2008-08345

DECISION & ORDER

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

(Docket No. D23279-07)

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Rayaz N. Khan, Jamaica, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Kristin M. Helmers and Janet L. Zaleon 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, Queens County (Hunt, J.), dated March 26, 2008, which, after a hearing, found that the appellant had committed acts which, if committed by an adult, would have constituted the crimes of attempted burglary in the first degree as a hate crime, attempted burglary in the second degree as a hate crime, menacing in the second degree as a hate crime, aggravated harassment in the second degree, and criminal trespass in the third degree as a hate crime, and (2) an order of disposition of the same court dated August 13, 2008, as amended October 27, 2008, which, upon the fact-finding order, adjudicated the appellant a juvenile delinquent and placed him in the custody of the New York State Office of Children and Family Services for a period of 18 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ORDERED that the appeal from the fact-finding order is dismissed, without costs or disbursements, as that order was superseded by the order of disposition; and it is further,

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

October 6, 2009

MATTER OF McC. (ANONYMOUS), AARON

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Viewing the evidence adduced at the fact-finding hearing 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, beyond a reasonable doubt, that the appellant committed acts which, if committed by an adult, would have constituted the crimes of attempted burglary in the first degree as a hate crime, attempted burglary in the second degree as a hate crime, menacing in the second degree as a hate crime, aggravated harassment in the second degree, and criminal trespass in the third degree as a hate crime (*cf.* Penal Law § 485.05[1]; *People v Marino*, 35 AD3d 292, 293). Moreover, upon our independent review of the record, we are satisfied that the findings of fact were not against the weight of the evidence (*see* Family Ct Act § 342.2[2]; *Matter of Victor I.*, 57 AD3d 779).

SKELOS, J.P., COVELLO, LEVENTHAL and ROMAN, 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