

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

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Submitted - September 14, 2009

MARK C. DILLON, J.P.
RANDALL T. ENG
ARIEL E. BELEN
L. PRISCILLA HALL, JJ.

2008-10054

DECISION & ORDER

In the Matter of Jonathan C. (Anonymous), appellant.

(Docket No. D-14059-08)

Pauline E. Braun, Brooklyn , N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Francis F. Caputo and Elizabeth I. Freedman 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 (Hunt, J.), dated October 22, 2008, which, upon a fact-finding order of the same court dated October 7, 2008, made after a hearing, finding 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, adjudged him to be a juvenile delinquent, and placed him on probation for a period of 15 months. The appeal brings up for review the fact-finding order dated October 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, 783), 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 assault in the third degree and menacing in the third degree (*see Penal Law §§ 110.00, 120.00[1]*; Penal Law § 120.15; *Matter of V.*, 64 AD3d 664; *Matter of Ashanti B.*, 62 AD3d 790, 791; *Matter of Charmaine B.*, 60 AD3d 672, 673; *Matter of Justice G.*, 22 AD3d 368, 369; *Matter of Joseph J.*, 205 AD2d 777, 778). Moreover, upon the exercise of our factual

October 6, 2009

Page 1.

MATTER OF C. (ANONYMOUS), JONATHAN

review power, we are satisfied that the Family Court's fact-finding determination was not against the weight of the evidence (*see* Family Ct Act § 342.2[2]; *cf.* CPL 470.15[5]; *People v Romero*, 7 NY3d 633).

DILLON, 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