

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

D25530  
C/kmg

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Submitted - November 20, 2009

STEVEN W. FISHER, J.P.  
DANIEL D. ANGIOLILLO  
THOMAS A. DICKERSON  
JOHN M. LEVENTHAL, JJ.

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2009-00058  
2009-00059

DECISION & ORDER

In the Matter of Daunte Jordan M. (Anonymous),  
appellant.

(Docket No. D-05895-08)

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Kelli M. O'Brien, Goshen, N.Y., for appellant.

David L. Darwin, County Attorney, Goshen, N.Y. (Allan Y. Drian 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, Orange County (Klein, J.), dated December 18, 2008, which, after a hearing, found that the appellant committed acts which, if committed by an adult, would have constituted the crimes of attempted rape in the first degree, sexual abuse in the first degree, attempted rape in the third degree (two counts), forcible touching, menacing in the second degree, criminal possession of a weapon in the fourth degree, unlawful imprisonment in the second degree, and unlawful imprisonment in the first degree, and (2) an order of disposition of the same court, also dated December 18, 2008, which, upon the fact-finding order and after a dispositional hearing, adjudged him to be 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that the appeal from the fact-finding order is dismissed, without costs or disbursements, as the fact-finding order was superseded by the order of disposition and is brought up for review on the appeal from the order of disposition; and it is further,

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

December 22, 2009

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Viewing the evidence in the light most favorable to the presentment agency (*see* Family Ct Act § 342.2[2]; *Matter of David H.*, 69 NY2d 792; *cf. People v Contes*, 60 NY2d 620, 621), we find that it was legally sufficient to support the findings of fact. Moreover, in fulfilling our responsibility to conduct an independent review of the weight of the evidence (*cf. CPL 470.15[5]; People v Danielson*, 9 NY3d 342), we nevertheless accord great deference to the trier of fact's opportunity to view the witnesses, hear the testimony, and observe demeanor (*see 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 (*cf. People v Romero*, 7 NY3d 633).

The appellant's remaining contentions are without merit.

FISHER, J.P., ANGIOLILLO, DICKERSON and LEVENTHAL, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court