

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

D26977  
Y/ct

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Submitted - March 19, 2010

PETER B. SKELOS, J.P.  
LEONARD B. AUSTIN  
SHERI S. ROMAN  
SANDRA L. SGROI, JJ.

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2009-03441

DECISION & ORDER

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

(Docket No. D-3951/08)

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Madeleine Petrara, Bayville, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Stephen J. McGrath and Susan B. Eisner 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 March 9, 2009, which, upon a fact-finding order of the same court dated January 28, 2009, made after a hearing, finding that the appellant committed acts which, if committed by an adult, would have constituted the crimes of criminal mischief in the fourth degree and making graffiti, adjudged him to be a juvenile delinquent and placed him on probation for a period of 15 months upon certain terms and conditions. The appeal brings up for review the fact-finding order dated January 28, 2009.

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), we find that it was legally sufficient to establish, beyond a reasonable doubt, the appellant's identity and that the appellant, acting in concert with others, committed acts which, if committed by an adult, constituted the crimes of criminal mischief in the fourth degree (Penal Law § 145.00[1]) and making graffiti (Penal Law § 145.60) (*see Matter of Isaiah Mc.*, 66 AD3d 1025; *Matter of Jamel G.*, 51 AD3d 918, 919; *Matter of Christian M.*, 37 AD3d 834).

April 20, 2010

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In fulfilling our responsibility to conduct an independent review of the weight of the evidence (*see Matter of Hasan C.*, 59 AD3d 617), we nevertheless accord great deference to the opportunity of the trier of fact to view the witnesses, hear the testimony, and observe demeanor (*see Matter of Daniel R.*, 51 AD3d 933). Upon reviewing the record, 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]; Matter of Christopher C.*, 54 AD3d 757; *Matter of Darnell C.*, 66 AD3d 771).

SKELOS, J.P., AUSTIN, ROMAN and SGROI, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court