

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

D26987  
Y/hu

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Argued - March 22, 2010

FRED T. SANTUCCI, J.P.  
DANIEL D. ANGIOLILLO  
JOHN M. LEVENTHAL  
PLUMMER E. LOTT, JJ.

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2009-06606

DECISION & ORDER

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

(Docket No. E-6470-08)

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Jason W. Eldridge, Brooklyn, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Francis F. Caputo and  
Karen M. Griffin 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, Kings County (Freeman, J.), dated June 11, 2009, which, upon a fact-finding order of the same court dated October 27, 2008, finding that the appellant had committed an act which, if committed by an adult, would have constituted the crime of sexual abuse in the first degree, adjudged him to be a juvenile delinquent and placed him on probation for a period of 18 months. The appeal brings up for review the fact-finding order dated October 27, 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 support the finding that the appellant committed an act which, if committed by an adult, would have constituted the crime of sexual abuse in the first degree. Moreover, in fulfilling our responsibility to conduct an independent review of the weight of the evidence (*see Matter of Hasan C.*, 59 AD3d 617, 617-618; *cf. CPL 470.15*[5]; *People v Danielson*, 9 NY3d 342), we nevertheless accord great deference to the opportunity of the trier of fact to view the witnesses, hear

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the testimony, and observe demeanor (*see Matter of Daniel R.*, 51 AD3d 933, 933-934; *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 Family Court's fact-finding determination was not against the weight of the evidence (*see* Family Ct Act § 342.2[2]; *cf. People v Romero*, 7 NY3d 633).

Contrary to the appellant's contention, he was not deprived of the effective assistance of counsel (*see People v Benevento*, 91 NY2d 708, 711-714; *Matter of Shaheen P.J.*, 29 AD3d 996, 998).

SANTUCCI, J.P., ANGIOLILLO, LEVENTHAL and LOTT, 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