

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

D27481
C/kmg

_____AD3d_____

Submitted - April 19, 2010

PETER B. SKELOS, J.P.
FRED T. SANTUCCI
JOHN M. LEVENTHAL
L. PRISCILLA HALL, JJ.

2009-09035
2009-09036
2009-09037
2009-09038
2009-09039

DECISION & ORDER

In the Matter of Jeffrey W. (Anonymous),
appellant.

(Docket Nos. D-10/07, D-1684/09, D-1685/09)

Tennille M. Tatum-Evans, New York, N.Y., for appellant.

Patricia Zugibe, County Attorney, New City, N.Y. (Patrick J. Carle of counsel), for
respondent.

In related juvenile delinquency proceedings pursuant to Family Court Act article 3, the appeals are from (1) a fact-finding order of the Family Court, Rockland County (Walsh, J.), dated September 2, 2009, which, after a hearing, found that the appellant committed acts which, if committed by an adult, would have constituted the crime of robbery in the third degree, (2) a fact-finding order of the same court, also dated September 2, 2009, which, after a hearing, found that the appellant committed acts which, if committed by an adult, would have constituted the crime of grand larceny in the fourth degree, (3) an order of disposition of the same court, also dated September 2, 2009, which, upon the first fact-finding order dated September 2, 2009, and after a dispositional hearing, placed the appellant with the New York State Office of Children and Family Services in a secure facility for a period of 18 months less 28 days spent in detention pending disposition, (4) an order of disposition of the same court, also dated September 2, 2009, which, upon the second fact-finding order dated September 2, 2009, and after a dispositional hearing, placed the appellant with the New York State Office of Children and Family Services in a secure facility for a period of 18

May 25, 2010

Page 1.

MATTER OF W. (ANONYMOUS), JEFFREY

months less 28 days spent in detention, and (5) an order of the same court entered September 2, 2009, which, upon the parties' consent, dismissed a petition for an extension of placement.

ORDERED that the appeals from the fact-finding orders are dismissed, without costs or disbursements, as those orders were superseded by the orders of disposition and are brought up for review on the appeals from the orders of disposition; and it is further,

ORDERED that the appeal from the order entered in the appellant's favor and upon the parties' consent is dismissed, without costs or disbursements (*see* CPLR 5511; *Barry v Barry*, 60 AD3d 882); and it is further,

ORDERED that the orders of disposition are affirmed, without costs or disbursements.

The Family Court is vested with broad discretion in entering dispositional orders, and its determination is entitled to deference (*see Matter of Summer D.*, 67 AD3d 1008, 1009; *Matter of Dania W.*, 65 AD3d 1356, 1357; *Matter of Michael L.*, 64 AD3d 780, 781; *Matter of Michael D.*, 60 AD3d 945; *Matter of Javed K.*, 57 AD3d 899, 900). Here, in determining the least restrictive available alternative consistent with the appellant's best interests and the need for protection of the community (*see* Family Ct Act § 352.2[2][a]), the Family Court providently exercised its discretion in placing the appellant in the custody of the New York State Office of Children and Family Services in a secure facility (*see Matter of Leonard J.*, 67 AD3d 911, 912; *Matter of Michael L.*, 64 AD3d at 781; *Matter of Tremain M.*, 63 AD3d 742, 743; *Matter of Ashanti B.*, 62 AD3d 790, 791; *Matter of Bruce B.*, 54 AD3d 1031; *Matter of Gustan G.*, 52 AD3d 513, 514).

SKELOS, J.P., SANTUCCI, LEVENTHAL and HALL, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court