

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

D28463
G/kmg

_____AD3d_____

Submitted - September 10, 2010

WILLIAM F. MASTRO, J.P.
FRED T. SANTUCCI
SHERI S. ROMAN
SANDRA L. SGROI, JJ.

2009-11655

DECISION & ORDER

In the Matter of Willie J. (Anonymous), Jr., appellant.

(Docket No. D-6259-08)

Dawn M. Shammas, Harrison, N.Y., for appellant.

David L. Darwin, County Attorney, Goshen, N.Y. (David S. Meffert of counsel), for respondent.

In a proceeding pursuant to Family Court Act article 3, the appeal is from an order of the Family Court, Orange County (Bivona, J.), dated October 9, 2009, which, after violation and dispositional hearings, revoked a prior dispositional order of the same court dated May 12, 2009, placing the appellant on probation, upon its finding that the appellant had violated conditions thereof, and placed him in the care and custody of the Orange County Department of Social Services for a period of 12 months.

ORDERED that the appeal from so much of the order as placed the appellant in the custody of the Orange County Department of Social Services for a period of 12 months is dismissed as academic, without costs or disbursements; and it is further,

ORDERED that the order is affirmed insofar as reviewed, without costs or disbursements.

The appeal from so much of the order as placed the appellant in the care and custody of the Orange County Department of Social Services for a period of 12 months has been rendered academic, as the placement has expired pursuant to its terms (*see Matter of Crystal B.*, 63 AD3d

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1056, 1057; *Matter of Dominique R.*, 57 AD3d 550; *Matter of Toni Ann O.*, 56 AD3d 563; *Matter of Joseph R.*, 49 AD3d 651).

Although the Family Court should have granted that branch of the appellant's motion which was to dismiss the second allegation of the violation of probation petition because it was not based upon a properly sworn supporting deposition (*see* Family Ct Act § 360.2[2]; *Matter of Neftali D.*, 85 NY2d 631, 634-635), the Family Court did not improvidently exercise its discretion in revoking the dispositional order which had placed the appellant on probation. The presentment agency adduced competent proof that the appellant, without just cause, failed to comply with additional terms and conditions of his probation, by, *inter alia*, using illegal substances and failing to report to his probation officer (*see* Family Ct Act § 779).

MASTRO, J.P., SANTUCCI, ROMAN and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court