

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

D29874  
O/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - January 10, 2011

MARK C. DILLON, J.P.  
RUTH C. BALKIN  
ARIEL E. BELEN  
LEONARD B. AUSTIN, JJ.

2010-02313

DECISION & ORDER

In the Matter of Liston J. (Anonymous), appellant.

(Docket No. D-6637-09)

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Richard L. Herzfeld, P.C., New York, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Kristin M. Helmers and  
Deborah A. Brenner of counsel), for respondent.

In a juvenile delinquency proceeding pursuant to Family Court Act article 3, Liston J. appeals from an order of disposition of the Family Court, Queens County (Lubow, J.), dated February 3, 2010, which, upon a fact-finding order of the same court dated November 24, 2009, made after a hearing, finding that he committed acts which, if committed by an adult, would have constituted the crime of attempted assault in the third degree, and after a dispositional hearing, adjudged him to be a juvenile delinquent and, inter alia, placed him on probation for a period of 18 months. The appeal brings up for review the fact-finding order dated November 24, 2009.

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

In a juvenile delinquency proceeding, the Family Court has broad discretion in determining the proper disposition (*see Matter of Ashley P.*, 74 AD3d 1075, 1076). Contrary to the appellant's contention, the Family Court did not improvidently exercise its discretion in declining to adjourn the proceeding in contemplation of dismissal (*see Family Ct Act* § 315.3). The Family Court properly adjudged the appellant to be a juvenile delinquent (*see Family Ct Act* § 352.1) and, inter alia, placed him on probation for a period of 18 months (*see Family Ct Act* § 352.2[1][b]). The appellant was not entitled to an adjournment in contemplation of dismissal merely because this was his first

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encounter with the law or in light of the other mitigating circumstances that he cites (*see Matter of Uriah D.*, 74 AD3d 1194; *Matter of Nikita P.*, 3 AD3d 499, 501; *Matter of Steven R.*, 230 AD2d 745). Rather, the Family Court's disposition was appropriate in light of the violent nature of the incident, the appellant's poor academic and school attendance record, his school disciplinary record, which included five suspensions, his failure to take responsibility for his actions, and the recommendation in the probation report (*see Matter of Uriah D.*, 74 AD3d 1194; *Matter of Melissa B.*, 49 AD3d 536, 537; *Matter of Leah G.*, 23 AD3d 658; *Matter of Gerald W.*, 12 AD3d 522, 523; *Matter of Nikita P.*, 3 AD3d at 500-501).

The appellant's remaining contention is without merit.

DILLON, J.P., BALKIN, BELEN and AUSTIN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan  
Clerk of the Court