

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

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_____AD3d_____

Submitted - January 11, 2011

REINALDO E. RIVERA, J.P.
JOHN M. LEVENTHAL
SANDRA L. SGROI
ROBERT J. MILLER, JJ.

2010-06010

DECISION & ORDER

In the Matter of Antoine H. (Anonymous), appellant.

(Docket No. D-181-10)

Steven Banks, New York, N.Y. (Tamara A. Steckler and Raymond E. Rogers of counsel), for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Stephen McGrath and Elina Druker of counsel), for respondent.

In a juvenile delinquency proceeding pursuant to Family Court Act article 3, Antoine H. appeals from an order of disposition of the Family Court, Richmond County (Sacco, J.), dated May 7, 2010, which, upon a fact-finding hearing of the same court dated March 25, 2010, made upon his admission, finding that he committed an act which, if committed by an adult, would have constituted the crime of criminal possession of marijuana in the fifth degree, adjudged him to be a juvenile delinquent and placed him on probation for a period of nine months.

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

Contrary to the appellant's contention, the Family Court providently exercised its discretion in adjudicating him a juvenile delinquent and directing a nine-month period of probation instead of giving him an adjournment in contemplation of dismissal. The Family Court has broad discretion in determining the proper disposition in a juvenile delinquency case (*see Matter of Gustav D.*, _____AD3d_____, 2010 NY Slip Op 09260 [2d Dept 2010]; *Matter of Abel R.*, 77 AD3d 758, 759; *Matter of Aaron P.*, 72 AD3d 826, 827), and the appellant was not entitled to an adjournment in contemplation of dismissal merely because this was his first brush with the law (*see*

Matter of Uriah D., 74 AD3d 1194, 1195; *Matter of Jonathan F.*, 72 AD3d 963, 964; *Matter of Aaron P.*, 72 AD3d at 827; *Matter of Javed K.*, 57 AD3d 899, 900). The record demonstrates that the Family Court gave careful consideration to whether placing the appellant on probation was the least restrictive alternative consistent with his best interests and the need for protection of the community (*see* Family Ct Act § 352.2[2][a]), and the disposition was appropriate in light of, among other factors, the probation department's recommendation, the appellant's poor academic and attendance record, his incidents of misbehavior at school, and his failure to take responsibility for his actions as reflected by the probation report (*see Matter of Uriah D.*, 74 AD3d at 1195; *Matter of Jonathan F.*, 72 AD3d at 964; *Matter of Javed K.*, 57 AD3d at 900; *Matter of Erika R.*, 55 AD3d 740).

RIVERA, J.P., LEVENTHAL, SGROI and MILLER, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court