

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

D30393
G/kmb

_____AD3d_____

Submitted - February 24, 2011

REINALDO E. RIVERA, J.P.
MARK C. DILLON
L. PRISCILLA HALL
SHERI S. ROMAN, JJ.

2010-04026
2010-04028

DECISION & ORDER

In the Matter of Marco N. (Anonymous),
appellant.

(Docket No. D-24140-09)

Larry S. Bachner, Jamaica, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Francis F. Caputo and
Susan Paulson of counsel), for respondent.

In a juvenile delinquency proceeding pursuant to Family Court Act article 3, Marco N. appeals from (1) a fact-finding order of the Family Court, Queens County (Hunt, J.), dated February 5, 2010, which, after a hearing, found that he committed acts which, if committed by an adult, would have constituted the crimes of robbery in the second degree, grand larceny in the fourth degree, and criminal possession of stolen property in the fifth degree, and (2) an order of disposition of the same court dated March 10, 2010, which, upon the fact-finding order and after a dispositional hearing, adjudged him to be a juvenile delinquent and, inter alia, placed him on probation for a period of 24 months.

ORDERED that the appeal from the fact-finding order is dismissed, without costs or disbursements, as the fact-finding order was superseded by the order of disposition and is brought up for review on the appeal from the order of disposition; and it is further,

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

March 15, 2011

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Viewing the evidence in the light most favorable to the presentment agency (*see Matter of David H.*, 69 NY2d 792, 793; *Matter of Ashley P.*, 74 AD3d 1075; *Matter of Joel C.*, 70 AD3d 936, 937; *cf. People v Contes*, 60 NY2d 620, 621), we find that it is was legally sufficient to establish, beyond a reasonable doubt, that the appellant committed acts which, if committed by an adult, would have constituted the crimes of robbery in the second degree, grand larceny in the fourth degree, and criminal possession of stolen property in the fifth degree based on a theory of accomplice liability (*see Family Ct Act § 342.2[2]*; Penal Law § 20.00; *Matter of Joseph H.*, 55 AD3d 608, 609; *Matter of Kenyetta F.*, 49 AD3d 540, 541; *Matter of Jonathan V.*, 43 AD3d 470, 471; *Matter of Joseph J.*, 205 AD2d 777, 778). Moreover, upon our independent review of the record, we are satisfied that the fact-finding determination was not against the weight of the evidence (*see Matter of Ashley P.*, 74 AD3d 1075, 1076; *Matter of Joel C.*, 70 AD3d 936, 937; *cf. People v Romero*, 7 NY3d 633).

The appellant's remaining contentions are without merit.

RIVERA, J.P., DILLON, HALL and ROMAN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court