

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

D30505
H/ct

_____AD3d_____

Argued - February 28, 2011

JOSEPH COVELLO, J.P.
THOMAS A. DICKERSON
RANDALL T. ENG
SANDRA L. SGROI, JJ.

2010-04582

DECISION & ORDER

In the Matter of Janel B. (Anonymous), appellant.

(Docket No. D-03965-08)

Steven Banks, New York, N.Y. (Gary Solomon and Davis Polk & Wardwell, LLP, New York, N.Y. [Christopher Lynch], of counsel), for appellant.

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

In a juvenile delinquency proceeding pursuant to Family Court Act article 3, Janel B. appeals from an order of disposition of the Family Court, Queens County (Lubow, J.), dated April 13, 2010, which, upon a fact-finding order of the same court dated September 14, 2009, made after a hearing, finding that Janel B. committed acts which, if committed by an adult, would have constituted the crime of attempted assault in the second degree, adjudged her to be a juvenile delinquent and placed her on probation for a period of 12 months. The appeal from the order of disposition brings up for review the fact-finding order dated September 14, 2009.

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

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, 1075-1076; *Matter of Eddie J.*, 68 AD3d 870; *cf. People v Contes*, 60 NY2d 620, 621), we find that it was legally sufficient to support the finding that the appellant committed an act which, if committed by an adult, would have constituted the crime of attempted assault in the second degree (Penal Law §§ 110.00, 120.05[2]). Moreover, upon the exercise of our factual review power (*cf. CPL 470.15[5]*; *People*

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v Danielson, 9 NY3d 342), we are satisfied that the Family Court's fact-finding determination was not against the weight of the evidence (see *Matter of Robert A.*, 57 AD3d 770, 771; *Matter of Jennifer B.*, 45 AD3d 589; *Matter of Willie W.*, 32 AD3d 479, 480; *Matter of Felix D.*, 30 AD3d 598, 599).

COVELLO, J.P., DICKERSON, ENG and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court