

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

D33939
H/nl

_____AD3d_____

Submitted - January 24, 2012

MARK C. DILLON, J.P.
ANITA R. FLORIO
CHERYL E. CHAMBERS
SHERI S. ROMAN, JJ.

2011-04953

DECISION & ORDER

In the Matter of Jamel C. (Anonymous), appellant.

(Docket No. D-5676/10)

Steven Banks, New York, N.Y. (Tamara A. Steckler and Amy Hausknecht of counsel), for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Edward F. X. Hart and Tahirih Sadrieh of counsel; William K. Chang on the brief), for respondent.

In a juvenile delinquency proceeding pursuant to Family Court Act article 3, Jamel C. appeals from an order of disposition of the Family Court, Queens County (Bogacz, J.), dated April 22, 2011, which, upon a fact-finding order of the same court dated January 21, 2011, made after a hearing, finding that he committed acts which, if committed by an adult, would have constituted the crime of robbery in the second degree, adjudged him to be a juvenile delinquent and placed him on probation for a period of 12 months. The appeal from the order of disposition brings up for review the fact-finding order.

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; *cf. People v Contes*, 60 NY2d 620, 621), we find that it was legally sufficient to establish, beyond a reasonable doubt, that the appellant committed acts which, if committed by an adult, would have constituted the crime of robbery in the second degree (*see Family Ct Act* § 342.2[2]). Moreover, in fulfilling our responsibility to conduct an independent review of the weight of the evidence (*cf. CPL* 470.15[5]; *People v Danielson*, 9 NY3d 342), we

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nevertheless accord deference to the factfinder's opportunity to view the witnesses, hear the testimony, and observe demeanor (*see Matter of Darnell C.*, 66 AD3d 771; *cf. People v Mateo*, 2 NY3d 383, *cert denied* 542 US 946; *People v Bleakley*, 69 NY2d 490, 495). Upon reviewing the record here, we are satisfied that the Family Court's fact-finding determination was not against the weight of the evidence (*cf. People v Romero*, 7 NY3d 633). The evidence of the appellant's conduct before, during, and after the acts established, beyond a reasonable doubt, that he acted in concert to commit the charged acts (*see Matter of Geovanny V.*, 82 AD3d 993, 994; *Matter of Jamal G.*, 293 AD2d 379, 380).

The appellant's remaining contention is without merit.

DILLON, J.P., FLORIO, CHAMBERS and ROMAN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court