

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

D35567
O/kmb

_____AD3d_____

Argued - June 7, 2012

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
RANDALL T. ENG
SHERI S. ROMAN, JJ.

2011-06457

DECISION & ORDER

In the Matter of Daryus B. (Anonymous), respondent.
Presentment Agency, appellant.

(Docket No. D-1159-11)

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Larry A. Sonnenshein and Sharyn Rootenberg of counsel), for appellant.

Yasmin Daley Duncan, Brooklyn, N.Y., for respondent.

In a juvenile delinquency proceeding pursuant to Family Court Act article 3, the Presentment Agency appeals from an order of the Family Court, Kings County (Toussaint, J.), dated June 2, 2011, which granted that branch of Daryus B.'s motion which was to dismiss the petition and, in effect, dismissed the petition.

ORDERED that the order is reversed, on the law, without costs or disbursements, that branch of Daryus B.'s motion which was to dismiss the petition is denied, the petition is reinstated, and the matter is remitted to the Family Court, Kings County, for further proceedings on the petition.

The Family Court erred in dismissing the petition (*see Matter of Shakeim C.*, _____ AD3d _____ [decided herewith]).

RIVERA, J.P., FLORIO, ENG and ROMAN, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court

July 11, 2012

MATTER OF B. (ANONYMOUS), DARYUS