

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

1388

CAF 09-02105

PRESENT: CENTRA, J.P., CARNI, SCONIERS, AND PINE, JJ.

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IN THE MATTER OF JOSEPH G., III,  
RESPONDENT-APPELLANT.

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ONEIDA COUNTY ATTORNEY,  
PETITIONER-RESPONDENT.

MEMORANDUM AND ORDER

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CHARLES PLOVANICH, ATTORNEY FOR THE CHILD, ROCHESTER, FOR  
RESPONDENT-APPELLANT.

LINDA M.H. DILLON, COUNTY ATTORNEY, UTICA (RAYMOND F. BARA OF  
COUNSEL), FOR PETITIONER-RESPONDENT.

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Appeal from an order of the Family Court, Oneida County (Randal B. Caldwell, J.), entered September 21, 2009 in a proceeding pursuant to Family Court Act article 3. The order placed respondent in the care and custody of the New York State Office of Children and Family Services.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: Respondent appeals from an order adjudicating him to be a juvenile delinquent based upon the finding that he committed an act that, if committed by an adult, would constitute the crime of manslaughter in the first degree (Penal Law § 125.20 [2]). After a dispositional hearing, Family Court determined that respondent required a restrictive placement (see Family Ct Act § 353.5 [1]), and the court ordered an initial placement in the custody of the New York State Office of Children and Family Services for a period of three years (see § 353.5 [5] [a] [i]). We reject respondent's contention that the court abused its discretion in ordering a restrictive placement. The court properly considered the seriousness of the crime, respondent's need for extensive treatment, the need to protect the community in light of respondent's inability to cope with stressful situations, and the aggressive behavior of respondent toward himself and others (see § 353.5 [2]; *Matter of Dwayne J.R.*, 60 AD3d 1467; *Matter of Christopher QQ.*, 40 AD3d 1183). We thus conclude that "[t]he order of disposition 'reflects an appropriate balancing of the needs of appellant and the safety of the community' " (*Matter of Noel M.*, 240 AD2d 231).

Entered: November 19, 2010

Patricia L. Morgan  
Clerk of the Court