

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

950

CAF 12-02037

PRESENT: SMITH, J.P., PERADOTTO, CARNI, AND LINDLEY, JJ.

IN THE MATTER OF ISAAC J.,
RESPONDENT-APPELLANT.

MONROE COUNTY ATTORNEY,
PETITIONER-RESPONDENT.

MEMORANDUM AND ORDER

JASON J. BOWMAN, ONTARIO, FOR RESPONDENT-APPELLANT.

MERIDETH H. SMITH, COUNTY ATTORNEY, ROCHESTER (TIMOTHY M. LEXVOLD OF
COUNSEL), FOR PETITIONER-RESPONDENT.

Appeal from an order of the Family Court, Monroe County (Gail A. Donofrio, J.), entered January 3, 2012 in a proceeding pursuant to Family Court Act article 3. The order adjudicated respondent to be a juvenile delinquent.

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

Memorandum: Respondent appeals from an order of disposition adjudicating him a juvenile delinquent based on the finding that he had committed acts that, if committed by an adult, would constitute the crime of assault in the third degree (Penal Law § 120.00 [1]). We reject respondent's contention that the evidence is legally insufficient to establish that he intended to cause physical injury to the victim or that the victim sustained such injury (*see Matter of Santoshia L.*, 202 AD2d 1027, 1027; *see also People v Stearns*, 72 AD3d 1214, 1217, *lv denied* 15 NY3d 778). Although we conclude that a different result would not have been unreasonable inasmuch as respondent testified to a version of the incident different from that presented by petitioner, we perceive no basis to disturb Family Court's resolution of witness credibility (*see Matter of Eric A.*, 66 AD3d 603, 603; *Matter of Brooke II*, 45 AD3d 1234, 1234-1235). We further conclude that the court did not fail "to give the evidence the weight it should be accorded" (*People v Bleakley*, 69 NY2d 490, 495; *see Matter of Travis D.*, 1 AD3d 968, 969).

Entered: September 27, 2013

Frances E. Cafarell
Clerk of the Court