

Supreme Court of the State of New York
Appellate Division, First Judicial Department

Moulton, J.P., Friedman, González, Shulman, Rosado, JJ.

6338

In the Matter of Z. T.,

Dkt. No. D3783/24

Case No. 2024-07941

A Person Alleged to be a
Juvenile Delinquent,
Appellant.

PRESENTMENT AGENCY.

Law Offices of Randall S. Carmel, Jericho (Randall S. Carmel of counsel), for appellant.

Muriel Goode-Trufant, Corporation Counsel, New York (Diana Lawless of counsel), for Presentment Agency.

Order of disposition, Family Court, New York County (Stephanie C. Schwartz, J.), entered on or about November 21, 2024, which adjudicated appellant a juvenile delinquent, upon a fact-finding determination that she committed acts that, if committed by an adult, would constitute the crimes of assault in the second degree, attempted assault in the second degree, assault in the third degree, and attempted assault in the third degree, and ordered a conditional discharge for a period of one year, unanimously modified, on the law, to the extent of dismissing the counts of attempted assault in the second degree, assault in the third degree, and attempted assault in the third degree, and otherwise affirmed, without costs.

As the Presentment Agency concedes, appellant is entitled to dismissal of those counts that are lesser included offenses of assault in the second degree (*see Matter of Esmeldyn P.*, 124 AD3d 542, 542 [1st Dept 2015]; *see also* CPL 1.20[37]).

On the remaining charge of second-degree assault, the fact-finding determination was based on legally sufficient evidence and was not against the weight of the evidence (*see People v Danielson*, 9 NY3d 342, 348 [2007]; *see also People v Baque*, 43 NY3d 26 [2024]). The evidence, including detailed testimony from the victim, medical records, and photographs, established that appellant slashed the victim in the face with a sharp metal object and kicked, punched, and stomped on the victim's body, causing injuries (*see Penal Law § 120.05*[2]; *People v Hierro*, 122 AD3d 420, 421 [1st Dept 2014], *lv denied* 25 NY3d 1165 [2015]). There is no basis for disturbing the court's credibility determinations (*see Matter of Messiah G.*, 160 AD3d 577, 578 [1st Dept 2018], *lv denied* 31 NY3d 912 [2018]).

To the extent that appellant contends that certain evidentiary rulings made by the court at the fact-finding hearing warrant reversal, those claims are unavailing. Appellant also failed to preserve her constitutional challenges to the court's evidentiary rulings under the Fifth, Sixth, and Fourteenth Amendments of the United States Constitution (*see People v Cabrera*, 41 NY3d 35, 42-51 [2023]), and we decline to review them in the interest of justice. As an alternative holding, we find them to be unavailing.

As to the order of disposition, a conditional discharge was the least restrictive alternative consistent with appellant's needs and the community's need for protection (*see Family Ct Act § 352.2*[2][a]; *Matter of Katherine W.*, 62 NY2d 947, 948 [1984]). In determining the disposition, the court properly considered the seriousness of appellant's violent attack on another youth with a weapon (*see Matter of C.C.*, 245 AD3d 462, 462-463 [1st Dept 2026]), the evidence that appellant had attacked the victim a second time while the case was pending, and appellant's truancy issues. Appellant "has not substantiated [her] claim that this adjudication might have adverse consequences for

[her]” in terms of her ability to participate in a job-training program (see *Matter of Dazaeth S.-M.*, 204 AD3d 552, 553 [1st Dept 2022]; see also *Matter of Giovanni G.*, 152 AD3d 419, 420 [1st Dept 2017]).

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: April 14, 2026

A handwritten signature in black ink, reading "Susanna Molina Rojas". The signature is written in a cursive, flowing style with a large initial "S".

Susanna Molina Rojas
Clerk of the Court