

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

D57462
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_____AD3d_____

Argued - October 9, 2018

LEONARD B. AUSTIN, J.P.
SHERI S. ROMAN
SANDRA L. SGROI
HECTOR D. LASALLE, JJ.

2017-08736

DECISION & ORDER

In the Matter of Rene S. (Anonymous), appellant.

(Docket Nos. D-3361-17, D-4555-17)

Vishnick McGovern Milizio, LLP, Lake Success, NY (Jordan M. Freundlich of counsel), for appellant.

Dennis M. Brown, County Attorney, Central Islip, NY (Mara E. Cella of counsel), for respondent.

In a proceeding pursuant to Family Court Act article 3, Rene S. appeals from an order of fact-finding and disposition of the Family Court, Suffolk County (Philip Goglas, J.), dated July 28, 2017. The order, after a hearing, adjudicated Rene S. a juvenile delinquent upon a finding that he committed acts which, if committed by an adult, would have constituted the crimes of menacing in the second degree (two counts) and criminal possession of a weapon in the fourth degree (two counts), and placed him in the custody of the New York State Office of Children and Family Services for a period of 12 months.

ORDERED that the appeal from so much of the order of fact-finding and disposition as placed the appellant in the custody of the New York State Office of Children and Family Services for a period of 12 months is dismissed as academic, without costs or disbursements; and it is further,

ORDERED that the order of fact-finding and disposition is affirmed insofar as reviewed, without costs or disbursements.

The appeal from so much of the order of fact-finding and disposition as placed the appellant in the custody of the New York State Office of Children and Family Services for a period

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of 12 months has been rendered academic, as the period of placement has expired (*see Matter of Willie J.*, 76 AD3d 1075; *Matter of Crystal B.*, 63 AD3d 1056, 1057).

Viewing the evidence in the light most favorable to the presentment agency (*see Matter of David H.*, 69 NY2d 792, 793), we find that it was legally sufficient to establish that the appellant committed acts which, if committed by an adult, would have constituted the crimes of menacing in the second degree (two counts) and criminal possession of a weapon in the fourth degree (two counts) (*see* Penal Law §§ 10.00[13]; 120.14[1]; 265.01[2]). Moreover, upon our independent review of the record, we are satisfied that the Family Court's fact-finding determination as to these counts was not against the weight of the evidence (*see Matter of Cromwell S.*, 154 AD3d 857, 858; *Matter of Heydi M.*, 154 AD3d 759, 761).

The appellant's remaining contention is without merit.

AUSTIN, J.P., ROMAN, SGROI and LASALLE, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court