

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

D21092
G/kmg

_____AD3d_____

Argued - October 27, 2008

REINALDO E. RIVERA, J.P.
ROBERT A. LIFSON
RANDALL T. ENG
CHERYL E. CHAMBERS, JJ.

2008-02351

DECISION & ORDER

In the Matter of Thomas D. (Anonymous),
appellant.

(Docket No. D-4081-05)

Neal D. Futerfas, White Plains, N.Y., for appellant.

Charlene M. Indelicato, County Attorney, White Plains, N.Y. (Stacey Dolgin-Kmetz
and Thomas G. Gardiner of counsel), for respondent.

In a juvenile delinquency proceeding pursuant to Family Court Act article 3, the appeal is from an order of the Family Court, Westchester County (Davidson, J.), entered February 13, 2008, which denied the appellant's motion, in effect, to vacate an order of disposition of the same court entered March 23, 2007, which, upon a fact-finding order of the same court entered April 19, 2006, made after a hearing, finding that the appellant committed an act which, if committed by an adult, would have constituted the crime of sexual abuse in the second degree, adjudged him to be a juvenile delinquent and, inter alia, placed him on probation for a period of 15 months.

ORDERED that the appeal from so much of the order entered February 13, 2008, as denied that branch of the appellant's motion which was, in effect, to vacate so much of the order of disposition as placed the appellant on probation for a period of 15 months is dismissed as academic, without costs or disbursements, as the period of probation has expired (*see Matter of Daniel R.*, 51 AD3d 933); and it is further,

ORDERED that the order is affirmed insofar as reviewed, without costs or disbursements.

November 18, 2008

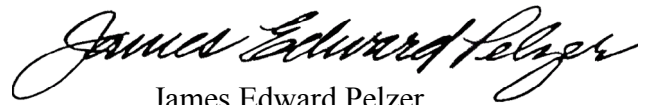
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Contrary to the appellant's contention, counsel provided him with meaningful representation (*see Matter of Thomas D.*, 50 AD3d 897; *Matter of Shaheen P.J.*, 29 AD3d 996, 998; *cf. People v Benevento*, 91 NY2d 708). Accordingly, the Family Court properly denied that branch of the appellant's motion which was, in effect, to vacate so much of the order of disposition as adjudged him to be a juvenile delinquent.

RIVERA, J.P., LIFSON, ENG and CHAMBERS, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court