

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

D24066  
O/kmg

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Submitted - June 15, 2009

PETER B. SKELOS, J.P.  
DANIEL D. ANGIOLILLO  
RUTH C. BALKIN  
ARIEL E. BELEN, JJ.

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2008-09858

DECISION & ORDER

In the Matter of Terrell R. (Anonymous),  
appellant.

(Docket No. D-10338-07)

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Cynthia Holfester-Neugebauer, Glen Head, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Elizabeth S. Natrella  
of counsel; Heather Berger on the brief), for respondent.

In a juvenile delinquency proceeding pursuant to Family Court Act article 3, the appeal is from an order of disposition of the Family Court, Kings County (Weinstein, J.), dated September 26, 2008, which, upon a fact-finding order of the same court dated May 28, 2008, made after a hearing, finding that the appellant had committed acts which, if committed by an adult, would have constituted the crimes of criminal possession of marijuana in the fifth degree and criminal sale of marijuana in the fourth degree, adjudged him to be a juvenile delinquent and placed him with the Office of Children and Family Services at the Cayuga Home for a period of up to 12 months. The appeal from the order of disposition brings up for review the fact-finding order.

ORDERED that the order of disposition is affirmed, without costs or disbursements.

At a suppression hearing, the testimony of the arresting officer alone was sufficient to establish that the seizure of the marijuana from the appellant was accomplished as part of a search incident to an arrest that was based upon probable cause (*cf. People v Petralia*, 62 NY2d 47, *cert denied* 469 US 852; *People v Rumble*, 60 AD3d 791; *People v Muniz*, 276 AD2d 346; *People v*

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MATTER OF R. (ANONYMOUS), TERRELL

*Acevedo*, 179 AD2d 465, 467).

The appellant's remaining contentions are without merit.

SKELOS, J.P., ANGIOLILLO, BALKIN and BELEN, 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