

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

1260

CAF 08-02343

PRESENT: CENTRA, J.P., FAHEY, PERADOTTO, CARNI, AND GORSKI, JJ.

IN THE MATTER OF ASA A., RESPONDENT-APPELLANT.

MEMORANDUM AND ORDER

MONROE COUNTY ATTORNEY, PETITIONER-RESPONDENT.

ROBERT A. DINIERI, LAW GUARDIAN, CLYDE, FOR RESPONDENT-APPELLANT.

DANIEL M. DELAUS, COUNTY ATTORNEY, ROCHESTER (ALECIA J. SPANO OF COUNSEL), FOR PETITIONER-RESPONDENT.

Appeal from an order of the Family Court, Monroe County (Dandrea L. Ruhlmann, J.), entered September 25, 2008 in a proceeding pursuant to Family Court Act article 3. The order, insofar as appealed from, adjudged that respondent is a juvenile delinquent.

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

Memorandum: Respondent appeals from an order adjudicating him to be a juvenile delinquent based on the finding that he committed an act that, if committed by an adult, would constitute the crimes of assault in the second degree (Penal Law § 120.05 [3]) and assault in the third degree (§ 120.00 [2]). Contrary to respondent's sole contention on appeal, we conclude that the evidence is legally sufficient to establish that the police officer involved sustained a physical injury within the meaning of Penal Law § 10.00 (9) (*see People v Chiddick*, 8 NY3d 445, 447-448; *People v Coombs*, 56 AD3d 1195, 1196, lv denied 12 NY3d 782; *Matter of Shawn L.*, 233 AD2d 953).

Entered: November 13, 2009

Patricia L. Morgan
Clerk of the Court