

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

1409

CAF 13-01705

PRESENT: SMITH, J.P., FAHEY, WHALEN, AND DEJOSEPH, JJ.

IN THE MATTER OF AMIR S., RESPONDENT-APPELLANT.

MEMORANDUM AND ORDER

MONROE COUNTY ATTORNEY, PETITIONER-RESPONDENT.

ROBERT A. DINIERI, ATTORNEY FOR THE CHILD, CLYDE, FOR
RESPONDENT-APPELLANT.

MERIDETH H. SMITH, COUNTY ATTORNEY, ROCHESTER (BRETT GRANVILLE OF
COUNSEL), FOR PETITIONER-RESPONDENT.

Appeal from an amended order of the Family Court, Monroe County (Joseph G. Nesser, J.), entered September 6, 2012 in a proceeding pursuant to Family Court Act article 3. The amended order, among other things, adjudged that respondent is a juvenile delinquent and placed him in the custody of the New York State Office of Children and Family Services for a period of three years.

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

Memorandum: Respondent appeals from an amended order adjudicating him to be a juvenile delinquent based upon the finding that he committed acts that, if committed by an adult, would constitute the crimes of rape in the first degree (Penal Law § 130.35 [3]), criminal sexual act in the first degree (§ 130.50 [3]), and sexual abuse in the first degree (§ 130.65 [3]). Contrary to respondent's contention, Family Court properly determined that he required a restrictive placement (see Family Ct Act § 353.5 [1]). In making that determination, the court properly considered the seriousness of the crime, respondent's need for therapy in conjunction with his failure to admit to his actions in the instant case, respondent's lack of support and adequate supervision at home, the need to protect the community in light of respondent's aggressive and inappropriate sexual behavior toward others at school, and his series of mental hygiene arrests (see § 353.5 [2]; *Matter of Joseph G.*, 78 AD3d 1700, 1700-1701; *Matter of Lamar J.F.*, 8 AD3d 1091, 1092; see also *Matter of Christopher Q.Q.*, 40 AD3d 1183, 1184). We conclude that "[t]he order of disposition 'reflects an appropriate balancing of the needs of [respondent] and the safety of the community' " (*Matter of Noel M.*, 240 AD2d 231, 231).

Entered: January 2, 2015

Frances E. Cafarell
Clerk of the Court