

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Matter of Jonathan E.

119 A.D.3d 943 (N.Y. App. Div. 2d Dep't 2014) · No. 2013-06685 · Decided July 30, 2014

SUMMARY

The Appellate Division, Second Department reviewed a juvenile delinquency adjudication based on a finding that Jonathan E. committed acts that would have constituted criminal possession of a controlled substance in the fifth degree. The court dismissed as academic the challenge to the expired probation term but reviewed and affirmed the delinquency adjudication and underlying fact-finding determination, finding the evidence legally sufficient and not against the weight of the evidence.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Reinaldo E. Rivera, J.P.; Sheri S. Roman, J.; Sandra L. Sgroi, J.; Hector D. LaSalle, J.
JURISDICTION	New York
DECIDED	July 30, 2014
DOCKET	2013-06685
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from an order of disposition in a juvenile delinquency proceeding under Family Court Act article 3. The order adjudicated Jonathan E. a juvenile delinquent and placed him on probation for 12 months; the appeal also brought up for review the underlying fact-finding order.
STANDARD OF REVIEW	The evidence was viewed in the light most favorable to the presentment agency for legal-sufficiency review. The Appellate Division independently reviewed the weight of the evidence while according great deference to the factfinder's opportunity to observe the witnesses and hear the testimony.
PRECEDENTIAL VALUE	published opinion
PARTIES	Jonathan E. (Anonymous) v. Respondent

TOPICS

family law

appellate procedure

mootness

standard of review

criminal procedure

PRACTICE AREAS

juvenile delinquency

family law

appellate procedure

criminal procedure

QUESTIONS PRESENTED

1. Whether the expiration of the 12-month probationary period rendered the appeal from that portion of the disposition academic.
2. Whether the juvenile delinquency adjudication and underlying fact-finding order remained reviewable despite expiration of the probationary period because of potential collateral consequences.
3. Whether the evidence was legally sufficient to establish beyond a reasonable doubt that Jonathan E. committed acts constituting criminal possession of a controlled substance in the fifth degree if committed by an adult.
4. Whether the Family Court's fact-finding determination was against the weight of the evidence.

HOLDINGS

1. The appeal from the portion of the disposition imposing 12 months of probation was dismissed as academic because the probationary period had expired.
2. The appeal from the portion of the disposition adjudicating Jonathan E. a juvenile delinquent, including review of the fact-finding order, was not academic because the adjudication could have collateral consequences.
3. The evidence was legally sufficient to establish beyond a reasonable doubt that Jonathan E. committed acts that, if committed by an adult, would have constituted criminal possession of a controlled substance in the fifth degree.
4. The Family Court's fact-finding determination was not against the weight of the evidence.

KEY QUOTATIONS

“However, since there may be collateral consequences resulting from the adjudication of delinquency, the appeal from so much of the order of disposition as adjudicated the appellant a juvenile delinquent, and which brings up for review the fact-finding order, has not been rendered academic” ([*1])

“Upon reviewing the record here, we are satisfied that the Family Court's fact-finding determination was not against the weight of the evidence” ([*1]-[*2])

FACTUAL BACKGROUND

After a fact-finding hearing, the Family Court determined that Jonathan E. committed acts that, if committed by an adult, would have constituted criminal possession of a controlled substance in the fifth degree. The court adjudicated him a juvenile delinquent and imposed a 12-month period of probation. That probationary period

expired while the appeal was pending, although the delinquency adjudication could have collateral consequences.

PROCEDURAL HISTORY

The Family Court, Kings County, entered a fact-finding order after a hearing, finding that Jonathan E. committed an act that would have constituted criminal possession of a controlled substance in the fifth degree if committed by an adult. The court then adjudicated him a juvenile delinquent and placed him on probation for 12 months. During the appeal, the probationary period expired, rendering that portion of the appeal academic, but the adjudication remained reviewable because of potential collateral consequences.

DISPOSITION

other

CASES CITED

- Matter of Rasean B., 7 AD3d 520
- Family Ct Act § 783
- Matter of Dorothy D., 49 NY2d 212
- Matter of David H., 69 NY2d 792, 793
- People v Contes, 60 NY2d 620, 621
- Matter of Hasan C., 59 AD3d 617, 617-618
- CPL 470.15(5)
- People v Danielson, 9 NY3d 342
- Matter of Ashley P., 74 AD3d 1075, 1076
- People v Mateo, 2 NY3d 383, 410
- People v Romero, 7 NY3d 633

OPINION

PER CURIAM.

Matter of Jonathan E. (2014 NY Slip Op 05541) Matter of Jonathan E. 2014 NY Slip Op 05541 Decided on July 30, 2014 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on July 30, 2014 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department REINALDO E. RIVERA, J.P.

SHERI S. ROMAN SANDRA L. SGROI HECTOR D. LASALLE, JJ. 2013-06685 (Docket No. D-519-02) [*1] In the Matter of Jonathan E. (Anonymous), appellant. Seymour M. James, Jr., New York, N.Y. (Tamara A. Steckler and Marcia Egger of counsel), for appellant. Zachary W. Carter,

Corporation Counsel, New York, N.Y. (Pamela Dolgow, Kristin M. Helmers, and Emma Grunberg of counsel), for respondent.

DECISION & ORDER In a juvenile delinquency proceeding pursuant to Family Court Act article 3, Jonathan E. appeals from an order of disposition of the Family Court, Kings County (McElrath, J.), dated June 10, 2013, which, upon a fact-finding order of the same court dated March 22, 2013, made after a hearing, finding that he committed an act which, if committed by an adult, would have constituted the crime of criminal possession of a controlled substance in the fifth degree, adjudged him to be a juvenile delinquent and placed him on probation for a period of 12 months.

The appeal from the order of disposition brings up for review the fact-finding order. ORDERED that the appeal from so much of the order of disposition as placed the appellant on probation for a period of 12 months is dismissed as academic, without costs or disbursements; and it is further, ORDERED that the order of disposition is affirmed insofar as reviewed, without costs or disbursements.

The appeal from so much of the order of disposition as placed the appellant on probation for a period of 12 months has been rendered academic, as the period of placement has expired (see *Matter of Rasean B.*, 7 AD3d 520).

However, since there may be collateral consequences resulting from the adjudication of delinquency, the appeal from so much of the order of disposition as adjudicated the appellant a juvenile delinquent, and which brings up for review the fact-finding order, has not been rendered academic (see Family Ct Act § 783; *Matter of Dorothy D.*, 49 NY2d 212). Viewing the evidence in the light most favorable to the presentment agency (see *Matter of David H.*, 69 NY2d 792, 793; cf. *People v Contes*, 60 NY2d 620, 621), we find that it was legally sufficient to establish, beyond a reasonable doubt, that the appellant committed acts which, if committed by an adult, would have constituted the crime of criminal possession of a controlled substance in the fifth degree.

Moreover, in fulfilling our responsibility to conduct an independent review of the weight of the evidence (see *Matter of Hasan C.*, 59 AD3d 617, 617-618; cf. CPL 470.15[5]; *People v Danielson*, 9 NY3d 342), we nevertheless accord great deference to the factfinder's opportunity to view the witnesses, hear the testimony, and observe demeanor (see *Matter [*2] of Ashley P.*, 74 AD3d 1075, 1076; cf. *People v Mateo*, 2 NY3d 383, 410).

Upon reviewing the record here, we are satisfied that the Family Court's fact-finding determination was not against the weight of the evidence (see *Matter of Ashley P.*, 74 AD3d at 1076; cf. *People v Romero*, 7 NY3d 633). RIVERA, J.P., ROMAN, SGROI and LASALLE, JJ., concur. ENTER: Aprilanne Agostino Clerk of the Court

