

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, THIRD DEPARTMENT

In re Kashayla L.

56 A.D.2d 962 (N.Y. App. Div. 2008) · Decided November 20, 2008

SUMMARY

The court dismissed as moot an appeal challenging a juvenile delinquency dispositional order placing the respondent in the custody of the Columbia County Department of Social Services for one year. The placement order had expired by its own terms before the appeal was decided.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Mercure, J.P.; Peters, J.; Lahtinen, J.; Malone Jr., J.; Kavanagh, J.
JURISDICTION	New York
DECIDED	November 20, 2008
DISPOSITION	dismissed
PROCEDURAL POSTURE	Respondent appealed from a Family Court order adjudicating her a juvenile delinquent and placing her in the custody of the Columbia County Department of Social Services for one year.
PRECEDENTIAL VALUE	published
PARTIES	Respondent v. Petitioner

TOPICS

- mootness
- appellate procedure
- family law procedure
- family law

PRACTICE AREAS

- family law
- juvenile delinquency
- appellate procedure

QUESTIONS PRESENTED

- Whether respondent's appeal challenging her one-year placement in the custody of the Columbia County Department of Social Services remained justiciable after the placement expired.

HOLDINGS

1. The appeal was moot because the dispositional order placing respondent in DSS custody for one year had expired by its own terms.

FACTUAL BACKGROUND

Respondent and two other young women physically attacked another young woman. They subsequently attempted to thwart a police officer's efforts to arrest respondent. Respondent admitted committing the alleged acts and was adjudicated a juvenile delinquent, after which Family Court ordered one year of custody with the Columbia County Department of Social Services.

PROCEDURAL HISTORY

Petitioner commenced a Family Court Act article 3 proceeding alleging that respondent committed acts that would have constituted third-degree assault and resisting arrest if committed by an adult. Respondent admitted the allegations, was adjudicated a juvenile delinquent, and was placed in DSS custody for one year after a dispositional hearing. She appealed only the dispositional placement, arguing that it was not the least restrictive available alternative; the placement expired while the appeal was pending.

DISPOSITION

dismissed

CASES CITED

- Matter of Andrew MM., 24 A.D.3d 1116, 1116 (2005)
- Matter of Evan P., 1 A.D.3d 831, 832 (2003)
- Matter of Terrance D., 44 A.D.3d 656, 656 (2007)

OPINION

PER CURIAM.

[871 NYS2d 425]— Appeal from an order of the Family Court of Columbia County (Czajka, J), entered February 6, 2007, which granted petitioner's application, in a proceeding pursuant to Family Ct Act article 3, to adjudicate respondent a juvenile delinquent. Petitioner commenced this proceeding alleging that respondent committed acts which, if committed by an adult, would have constituted the crimes of assault in the third degree and resisting arrest.

The charges stem from an incident in which respondent and two others physically attacked another young woman, and then subsequently attempted to thwart a police officer's attempts to arrest respondent. After admitting that she perpetrated the acts alleged, respondent was adjudicated a juvenile delinquent. Following a dispositional hearing, Family Court ordered that respondent be placed in the custody of the Columbia County Department of Social Services (hereinafter DSS) for a period of one year.

Upon this appeal, respondent's sole argument is that her placement in DSS custody was not the least restrictive alternative available. Inasmuch as the dispositional order placing respondent in DSS custody for one year has expired by its own terms, however, this appeal is now moot (*Matter of Andrew MM.*, *96324 AD3d 1116, 1116 [2005]; *Matter of Evan P.*, 1 AD3d 831, 832 [2003]; cf. *Matter of Terrance D.*, 44 AD3d 656, 656 [2007]).

Mercure, J.E, Peters, Lahtinen, Malone Jr. and Kavanagh, JJ., concur. Ordered that the appeal is dismissed, as moot, without costs.