

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

Matter of Anthony W.

2017 NY Slip Op 5742 (N.Y. Ct. App. 2017) · No. 2016-08633 · Decided July 14, 2017

SUMMARY

The Appellate Division, Second Department, affirmed a Family Court order adjudicating Anthony W. a juvenile delinquent and placing him on enhanced supervision probation for 13 months. The court held that the disposition was within Family Court’s broad discretion and was the least restrictive alternative consistent with the appellant’s needs, best interests, and community protection.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	William F. Mastro, J.P.; Ruth C. Balkin, J.; Sandra L. Sgroi, J.; Colleen D. Duffy, J.
JURISDICTION	New York
DECIDED	July 14, 2017
DOCKET	2016-08633
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of disposition in a juvenile delinquency proceeding that adjudicated the appellant a juvenile delinquent and placed him on enhanced supervision probation for 13 months.
STANDARD OF REVIEW	The Family Court's disposition in a juvenile delinquency proceeding is reviewed for abuse of discretion and is accorded great deference.
PRECEDENTIAL VALUE	precedential
PARTIES	Anthony W. (Anonymous), appellant v. Respondent, not otherwise named in the opinion

TOPICS

- family law
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Family Court providently exercised its discretion in placing the appellant on enhanced supervision probation for 13 months.
2. Whether the disposition was the least restrictive alternative consistent with the appellant's needs and best interests and the need to protect the community.

HOLDINGS

1. The Family Court providently exercised its broad discretion by placing the appellant on enhanced supervision probation for 13 months.
2. The disposition was the least restrictive alternative consistent with the appellant's needs and best interests and the need for protection of the community; the court was not required to try and reject each less restrictive intervention before imposing enhanced supervision probation.

KEY QUOTATIONS

*“The court has broad discretion in determining the proper disposition in a juvenile delinquency proceeding, and its determination is accorded great deference” (*1)*

*“the least restrictive alternative test does not require the court to actually try the lowest form of intervention, have it fail, and then try each succeeding level of intervention” (*1)*

FACTUAL BACKGROUND

The appellant admitted committing an act that would have constituted attempted assault in the third degree if committed by an adult. The probation report recommended enhanced supervision, and the record indicated that the appellant's mother could not adequately supervise him alone, that he had academic problems, and that he continued to smoke marijuana and stole from his mother after the fact-finding order was issued. Based on those circumstances, the Family Court imposed 13 months of enhanced supervision probation.

PROCEDURAL HISTORY

The Family Court, Kings County, issued an order of fact-finding after the appellant's admission that he committed an act that would have constituted attempted assault in the third degree if committed by an adult. The Family Court then entered an order of disposition placing him on enhanced supervision probation for 13 months. The Appellate Division affirmed the order of disposition.

DISPOSITION

affirmed

CASES CITED

- Matter of Norell A.-T., 141 AD3d 712, 713

- Matter of Kieron C., 140 AD3d 1160, 1161
- Matter of Sharice B., 149 AD3d 833, 833
- Matter of Tristan W., 258 AD2d 585, 586
- Matter of Leah G., 23 AD3d 658, 658
- Matter of Tanaja F., 147 AD3d 936, 937
- Matter of Elijah G., 138 AD3d 839
- Matter of Shaundale W., 82 AD3d 1254, 1255
- Matter of Ashley P., 74 AD3d 1075, 1076
- Matter of Antonio C., 294 AD2d 123, 124

OPINION

PER CURIAM.

Matter of Anthony W. (2017 NY Slip Op 05742) Matter of Anthony W. 2017 NY Slip Op 05742 Decided on July 19, 2017 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 19, 2017 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department WILLIAM F. MASTRO, J.P.

RUTH C. BALKIN SANDRA L. SGROI COLLEEN D. DUFFY, JJ. 2016-08633 (Docket No. D-00744-16) [*1]In the Matter of Anthony W. (Anonymous), appellant. Francine Shraga, Brooklyn, NY, for appellant. Zachary W. Carter, Corporation Counsel, New York, NY (Susan P. Greenberg and Jonathan A. Popolow of counsel), for respondent. DECISION & ORDER Appeal from an order of disposition of the Family Court, Kings County (Jacqueline D. Williams, J.), dated July 20, 2016.

The order of disposition adjudicated the appellant a juvenile delinquent, upon an order of fact-finding of that court dated February 22, 2016, made upon his admission, finding that he committed an act which, if committed by an adult, would have constituted the crime of attempted assault in the third degree, and placed him on enhanced supervision probation for a period of 13 months.

ORDERED that the order of disposition is affirmed, without costs or disbursements. The Family Court providently exercised its discretion in placing the appellant on probation under the enhanced supervision program for a period of 13 months, based upon his admission that he committed an act which, if committed by an adult, would have constituted the crime of attempted assault in the third degree.

The court has broad discretion in determining the proper disposition in a juvenile delinquency proceeding, and its determination is accorded great deference (see Matter of Norell A.-T., 141 AD3d 712, 713; Matter of Kieron C., 140 AD3d 1160, 1161). " [T]he least restrictive alternative

test does not require the court to actually try the lowest form of intervention, have it fail, and then try each succeeding level of intervention" (Matter of Sharice B., 149 AD3d 833, 833, quoting Matter of Tristan W., 258 AD2d 585, 586; see Matter of Leah G., 23 AD3d 658, 658).

The disposition was the least restrictive alternative consistent with the needs and best interests of the appellant and the need for protection of the community in light of, inter alia, the recommendation in the probation report, the appellant's mother's professed inability to adequately supervise him on her own, the appellant's academic problems, and the evidence demonstrating that he continued to smoke marijuana and stole from his mother after the order of fact-finding was issued (see Matter of Tanaja F., 147 AD3d 936, 937; Matter of Elijah G., 138 AD3d 839; Matter of Shaundale W., 82 AD3d 1254, 1255; Matter of Ashley P., 74 AD3d 1075, 1076; Matter of Antonio C., 294 AD2d 123, 124).

MASTRO, J.P., BALKIN, SGROI and DUFFY, JJ., concur. ENTER: Aprilanne Agostino Clerk of the Court