

State of New York  
Supreme Court, Appellate Division  
Third Judicial Department

Decided and Entered: June 9, 2005

96195

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In the Matter of JESSICA GG.,  
a Person in Need of  
Supervision.

TIM CARD, as Juvenile  
Probation Officer of the  
Delaware County Probation  
Department

MEMORANDUM AND ORDER

Respondent;

JESSICA GG.,

Appellant.

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Calendar Date: May 2, 2005

Before: Cardona, P.J., Mercure, Crew III, Carpinello and  
Muglin, JJ.

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Jehed Diamond, Law Guardian, Delhi, for appellant.

Richard Spinney, County Attorney, Delhi (Porter L. Kirkwood  
of counsel), for respondent.

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Carpinello, J.

Appeal from an order of the Family Court of Delaware County  
(Becker, J.), entered June 22, 2004, which granted petitioner's  
application, in a proceeding pursuant to Family Ct Act article 7,  
to revoke a prior order of probation and placed respondent in the  
custody of the Delaware County Department of Social Services for  
a period of one year.

Respondent was adjudicated a person in need of supervision and placed on probation for one year upon certain terms and conditions. A violation petition was thereafter filed. At respondent's initial appearance on the violation petition, the Law Guardian indicated that respondent was prepared to make certain admissions to the petition and ultimately did so. At no time during this hearing, however, was respondent advised of the right to remain silent (see Family Ct Act § 741 [a]). While Family Court informed her that she had the right, but was not required, to testify at a fact-finding hearing, this admonition is not equivalent to an advisement of the right to remain silent. This failure constitutes reversible error and compels us to vacate the resulting order of disposition (see Matter of Ashley A., 296 AD2d 627, 628 [2002]; Matter of Jodi VV., 295 AD2d 659, 660 [2002]; Matter of Shaun U., 288 AD2d 708, 709 [2001]).<sup>1</sup> As a result, we need not address respondent's remaining contentions.

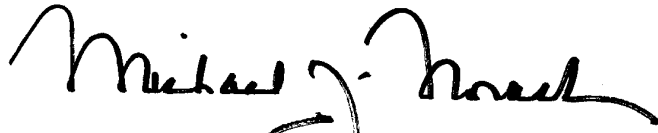
Cardona, P.J., Mercure, Crew III and Mugglin, JJ., concur.

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<sup>1</sup> We reject petitioner's contention that this particular argument is not properly before us because respondent did not appeal from the fact-finding order. Respondent's appeal from the dispositional order brings up for review the fact-finding order (see Family Ct Act § 1112 [a]; see e.g. Matter of Michael H., 239 AD2d 618, 619 [1997]; Matter of Anthony SS., 197 AD2d 767, 768 [1993]).

ORDERED that the order is reversed, on the law, without costs, and matter remitted to the Family Court of Delaware County for further proceedings not inconsistent with this Court's decision.

ENTER:



Michael J. Novack  
Clerk of the Court

