

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

Decided and Entered: June 28, 2007

501240

In the Matter of BENJAMIN NN.,
a Juvenile Delinquent.

SULLIVAN COUNTY PROBATION
DEPARTMENT,

Respondent;

MEMORANDUM AND ORDER

BENJAMIN NN.,

Appellant.

Calendar Date: June 5, 2007

Before: Crew III, J.P., Peters, Carpinello, Mugglin and
Kane, JJ.

Dana Rudikoff, Kingston, for appellant.

Sam Yagsur, County Attorney, Monticello (Glen Rosenstein of
counsel), for respondent.

Peters, J.

Appeal from an order of the Family Court of Sullivan County
(Meddaugh, J.), entered September 5, 2006, which granted
petitioner's application, in a proceeding pursuant to Family Ct
Act article 3, to find respondent in violation of a prior order
of disposition.

After having perpetrated an act which, if committed by an
adult, would constitute the crime of petit larceny, respondent
was adjudicated a juvenile delinquent and placed on probation for
a period of 12 months. Petitioner thereafter commenced this
proceeding alleging that respondent breached the terms of his

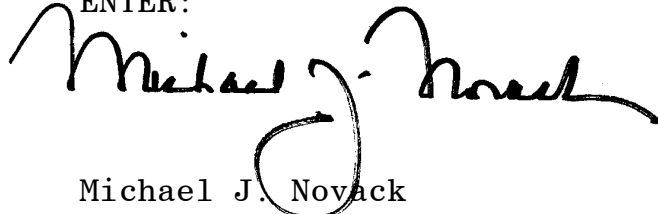
probation. Upon respondent's admission that he violated his probation by using marihuana, consuming alcohol and getting disciplined at school, Family Court found that he was in violation of its prior order of disposition imposing probation and scheduled a dispositional hearing. Following that hearing, Family Court, among other things, remanded respondent to the custody of the Sullivan County Commissioner of Social Services to be held in nonsecure detention pending residential placement. Respondent now appeals, arguing that placement in therapeutic foster care was the more appropriate, least restrictive alternative for him.

In making its decision, Family Court considered respondent's failure to abide by the conditions of his probation, difficulties in living at home with his parents, noncompliance with various programs, lack of success with preventive services and unauthorized absences from school. Under the facts and circumstances of this case, we conclude that Family Court properly concluded that residential placement was the least restrictive available alternative (see Matter of Amanda RR., 230 AD2d 451 [1997]). Accordingly, the order is affirmed.

Crew III, J.P., Carpinello, Mugglin and Kane, JJ., concur.

ORDERED that the order is affirmed, without costs.

ENTER:

A handwritten signature in black ink, appearing to read "Michael J. Novack". The signature is written in a cursive style with a large, looping initial "M".

Michael J. Novack
Clerk of the Court