

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D18441
W/kmg

_____AD3d_____

Submitted - February 8, 2008

WILLIAM F. MASTRO, J.P.
JOSEPH COVELLO
RANDALL T. ENG
ARIEL E. BELEN, JJ.

2006-10333

DECISION & ORDER

In the Matter of Pamela Robinson, appellant,
v Paul Bennett, respondent.

(Docket No. O-5955/05)

Joseph R. Faraguna, Sag Harbor, N.Y., for appellant.

Edward E. Caesar, Brooklyn, N.Y., for respondent.

In a family offense proceeding pursuant to Family Court Act article 8, the petitioner appeals from an order of the Family Court, Kings County (Hepner, J.), dated September 22, 2006, which, after a hearing, denied the petition, dismissed the proceeding, and vacated a temporary order of protection against the respondent.

ORDERED that the order is affirmed, without costs or disbursements.

The determination of whether a family offense was committed is a factual determination to be resolved by the Family Court (*see Matter of Hall v Hall*, 45 AD3d 842, 843; *Matter of Waaldijk-Howell v Howell*, 22 AD3d 675; *Matter of King v Flowers*, 13 AD3d 629). The Family Court's credibility determination is entitled to great weight on appeal (*see Matter of Hall v Hall*, 45 AD3d at 843; *Matter of Waaldijk-Howell v Howell*, 22 AD3d at 675; *Matter of King v Flowers*, 13 AD3d at 629). The record supports the Family Court's determination that the petitioner failed to prove, by a fair preponderance of the credible evidence, that the respondent committed an act constituting a family offense (*see Family Ct Act § 832; Matter of Hall v Hall*, 45 AD3d at 842-43;

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Matter of Waaldijk-Howell v Howell, 22 AD3d at 675; *Matter of King v Flowers*, 13 AD3d at 629).

MASTRO, J.P., COVELLO, ENG and BELEN, JJ., concur.

ENTER:


James Edward Peizer
Clerk of the Court