

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

D22031  
C/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - January 9, 2009

WILLIAM F. MASTRO, J.P.  
ANITA R. FLORIO  
JOSEPH COVELLO  
ARIEL E. BELEN, JJ.

---

2008-02517

DECISION & ORDER

In the Matter of Theresa Fernandez, respondent,  
v Jose Pacheco, appellant.

(Docket No. O-13061/06)

---

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

Joanne N. Sirotkin, White Plains, N.Y., for respondent.

Faith G. Miller, White Plains, N.Y., attorney for the children.

In a family offense proceeding pursuant to Family Court Act article 8, Jose Pacheco appeals from an order of protection of the Family Court, Westchester County (Klein, J.), entered March 12, 2008, which, after a hearing, inter alia, directed him to stay away from the petitioner and her children Veronica Fernandez, Olivia Pacheco, and Nicholas Pacheco for two years.

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

The determination of whether a family offense was committed is a factual issue to be resolved by the Family Court (*see Matter of Lallmohamed v Lallmohamed*, 23 AD3d 562), and the Family Court's determination regarding the credibility of witnesses is entitled to great weight on appeal (*see Matter of Meiling Zhang v Jingnong Zhu*, 36 AD3d 704; *Matter of Laboy v Melendez*, 27 AD3d 650). The record supports the Family Court's determination that the petitioner established, by a preponderance of the evidence, that the appellant committed certain family offenses warranting the issuance of an order of protection (*see* Family Ct Act §§ 812, 832).

February 10, 2009

Page 1.

MATTER OF FERNANDEZ v PACHECO

The appellant's remaining contention is unpreserved for appellate review.

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

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, looping initial "J".

James Edward Pelzer  
Clerk of the Court