

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

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Submitted - February 26, 2009

PETER B. SKELOS, J.P.  
MARK C. DILLON  
JOSEPH COVELLO  
JOHN M. LEVENTHAL, JJ.

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2008-07633

DECISION & ORDER

In the Matter of Tanya D. Nelson-Waller, respondent,  
v Michael L. Waller, appellant.

(Docket No. O-2089-08)

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Barry B. Silver, New Windsor, N.Y., for appellant.

Joseph J. Artrip, New Windsor, N.Y., for respondent.

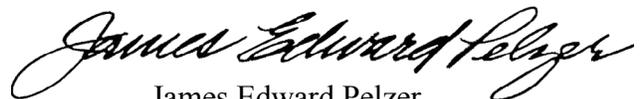
In a family offense proceeding pursuant to Family Court Act article 8, the husband appeals from an order of protection of the Family Court, Orange County (Bivona, J.), dated July 15, 2008, which, after a hearing, and upon, in effect, a finding that he committed the family offense of disorderly conduct, inter alia, directed him to stay away from the wife for a period of two years.

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

“A family offense must be established by a ‘fair preponderance of the evidence’ (Family Ct Act § 832). The Family Court’s determination regarding the credibility of witnesses must be given great weight on appeal unless clearly unsupported by the record” (*Matter of Hunt v Hunt*, 51 AD3d 924, 925). The record supports the Family Court’s finding that, based on a preponderance of the evidence, the husband committed acts constituting the family offense of disorderly conduct, warranting the issuance of the order of protection.

SKELOS, J.P., DILLON, COVELLO and LEVENTHAL, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

March 31, 2009

MATTER OF NELSON-WALLER v WALLER