

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

D27544
H/prt

_____AD3d_____

Submitted - May 6, 2010

PETER B. SKELOS, J.P.
JOSEPH COVELLO
L. PRISCILLA HALL
SANDRA L. SGROI, JJ.

2009-04165

DECISION & ORDER

In the Matter of Aurshpunit Kaur, respondent,
v Aurwindur Singh, appellant.

(Docket No. O-13322-08)

Mark P. Isaacs, Valley Stream, N.Y., for appellant.

Amy L. Colvin, Huntington, N.Y., for respondent.

In a family offense proceeding pursuant to Family Court Act article 8, Aurwindur Singh appeals from an order of fact-finding and disposition of the Family Court, Nassau County (St. George, J.), dated March 27, 2009, which, after a hearing, inter alia, found that he had committed the family offenses of harassment in the second degree and menacing, and directed the issuance of an order of protection in favor of the petitioner and against him.

ORDERED that the order of fact-finding and disposition is affirmed, without costs or disbursements.

“The determination of whether a family offense was committed is a factual issue to be resolved by the hearing court” (*Matter of Creighton v Whitmore*, 71 AD3d 1141, 1141; *see* Family Ct Act §§ 812, 832; *Matter of Halper v Halper*, 61 AD3d 687; *Matter of Lallmohamed v Lallmohamed*, 23 AD3d 562), whose “determination regarding the credibility of witnesses is entitled to great weight on appeal unless clearly unsupported by the record” (*Matter of Creighton v Whitmore*, 71 AD3d at 1141; *see Matter of Robbins v Robbins*, 48 AD3d 822; *Matter of Phillips v Laland*, 4 AD3d 529, 530). Here, a fair preponderance of the credible evidence supported the Family Court’s determination that, on November 27, 2008, the appellant committed acts which constituted

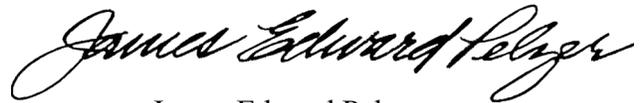
the family offenses of harassment in the second degree and menacing, warranting the issuance of an order of protection (*see* Family Ct Act § 832; Penal Law § 240.26[1]; § 120.15; *Matter of Czop v Czop*, 21 AD3d 958, 959; *Matter of Jessica C. v Esteban B.*, 13 AD3d 183; *Yvette H. v Michael G.*, 270 AD2d 123).

Contrary to the appellant's contention, it was not incumbent upon the Family Court to specify the particular family offense, i.e., what degree of menacing his acts constituted, where it was clear from the record that his acts constituted menacing in the third degree (*see Matter of Abbott v Burnes*, 27 AD3d 555; *Matter of Topper v Topper*, 271 AD2d 613, 613-614).

The appellant's remaining contentions are without merit.

SKELOS, J.P., COVELLO, HALL and SGROI, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court