

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

D29644
H/prt

_____AD3d_____

Submitted - December 17, 2010

MARK C. DILLON, J.P.
RUTH C. BALKIN
JOHN M. LEVENTHAL
CHERYL E. CHAMBERS, JJ.

2009-05684

DECISION & ORDER

In the Matter of Farbin Akter, respondent,
v Hafiz A. Patwary, appellant.

(Docket No. O-16408-07)

Rayaz N. Khan, Jamaica, N.Y., for appellant.

Janet L. Brown, Jamaica, N.Y., for respondent.

John A. Pappalardo, White Plains, N.Y., attorney for the children.

In a family offense proceeding pursuant to Family Court Act article 8, Hafiz A. Patwary appeals from an order of protection of the Family Court, Queens County (O'Connor, J.), dated May 26, 2009, which, after a hearing, and upon a finding that he had committed certain family offenses, inter alia, directed him to stay away from the petitioner until May 20, 2011.

ORDERED that the order of protection 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” (*Matter of Robinson v Bennett*, 49 AD3d 652, 652). “Where the Family Court is primarily confronted with issues of credibility, its factual determinations are afforded great weight on appeal” (*Matter of Spillman v Spillman*, 40 AD3d 770, 770). Contrary to the appellant’s contention, a fair preponderance of the credible evidence, including the petitioner’s testimony that the appellant struck her on the side of the head, supports the Family

Court's determination that the appellant committed family offenses warranting the issuance of the order of protection (*see* Family Ct Act § 832; Penal Law §§ 120.00, 120.15; *Matter of Fleming v Fleming*, 52 AD3d 600; *Matter of Larson v Gilliam*, 49 AD3d 650).

DILLON, J.P., BALKIN, LEVENTHAL and CHAMBERS, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan
Clerk of the Court