

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

D29836  
Y/hu

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

Submitted - January 6, 2011

JOSEPH COVELLO, J.P.  
THOMAS A. DICKERSON  
L. PRISCILLA HALL  
PLUMMER E. LOTT, JJ.

---

2010-04652

DECISION & ORDER

In the Matter of Charles J. Smith, appellant, v  
Patricia J. Smith, respondent.

(Docket No. O-2697-09)

---

John A. Reno, Deer Park, N.Y., for appellant.

The Sallah Law Firm P.C., Holtsville, N.Y. (Dean J. Sallah of counsel), 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, Suffolk County (Freundlich, J.), dated April  
2, 2010, which, after a hearing, and upon a finding that he had committed a family offense within the  
meaning of Family Court Act § 812, in effect, granted the petition for an order of protection.

ORDERED that the order of protection is reversed, on the law, without costs or  
disbursements, the petition is denied, and the proceeding is dismissed.

The record does not support the Family Court's determination that the husband  
committed a family offense warranting the issuance of an order of protection (*see* Family Ct Act §  
812[1]; § 832; *Matter of Garland v Garland*, 3 AD3d 496).

January 25, 2011

MATTER OF SMITH v SMITH

Page 1.

In light of our determination, we need not reach the husband's remaining contentions.

COVELLO, J.P., DICKERSON, HALL and LOTT, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court