

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

D30463  
C/kmb

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

Submitted - February 28, 2011

JOSEPH COVELLO, J.P.  
THOMAS A. DICKERSON  
RANDALL T. ENG  
SANDRA L. SGROI, JJ.

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2010-02003

DECISION & ORDER

In the Matter of Joyce Armstrong, respondent,  
v Christin E. Ewing, appellant.

(Docket No. O-12544-09)

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Anne R. Mueller, West Harrison, N.Y., for appellant.

Daniel L. Pagano, Yorktown Heights, N.Y., for respondent.

In a family offense proceeding pursuant to Family Court Act article 8, Christin E. Ewing appeals from an order of protection of the Family Court, Westchester County (Klein, J.), dated January 13, 2010, which, after a hearing, and upon a finding that he had committed a family offense, directed him, inter alia, to stay away from the petitioner until and including January 13, 2012.

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 hearing court” (*Matter of Creighton v Whitmore*, 71 AD3d 1141, 1141; *see Matter of Greener v Greener*, 77 AD3d 664; *Matter of Kaur v Singh*, 73 AD3d 1178), and where that court is presented with issues of credibility, its findings are accorded great weight on appeal (*see Matter of Greener v Greener*, 77 AD3d 664; *Matter of Kaur v Singh*, 73 AD3d 1178; *Matter of Ciccone v Ciccone*, 73 AD3d 1052). Contrary to the appellant’s contention, a fair preponderance of the credible evidence supported the Family Court’s determination that he committed acts which constituted the family offense of menacing in the third degree, warranting the issuance of an order of protection (*see Family Ct Act* §§ 812, 832; *Penal Law* § 120.15; *Matter of Kaur v Singh*, 73 AD2d

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1178; *Matter of Gray v Gray*, 55 AD3d 909, 910; *Matter of Sinclair v Batista-Mall*, 50 AD3d 1044; see also *Matter of Monay W.*, 33 AD3d 809, 810).

COVELLO, J.P., DICKERSON, ENG and SGROI, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court