

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

D30623
G/prt

_____AD3d_____

Submitted - March 4, 2011

WILLIAM F. MASTRO, J.P.
PETER B. SKELOS
RUTH C. BALKIN
SHERI S. ROMAN, JJ.

2010-02354
2010-02356

DECISION & ORDER

In the Matter of Karina Bibolova, respondent,
v Andrei Radu, appellant.

(Docket No. O-18297-09)

Law Firm of Natalia Skvortsova, PLLC, Brooklyn, N.Y., for appellant.

Lance Kramer, Brooklyn, N.Y., for respondent.

In a family offense proceeding pursuant to Family Court Act article 8, the appeal is from (1) an order of fact-finding and disposition of the Family Court, Kings County (Weinstein, J.), dated February 3, 2010, which, after a hearing, found that the appellant had committed the family offense of harassment in the second degree and directed him to comply with the conditions set forth in an order of protection dated February 3, 2010, for a period not to exceed 12 months, and (2) the order of protection of the same court dated February 3, 2010, which, inter alia, directed him to stay away from the petitioner, her residence, and their son, subject to court-ordered visitation, for a period up to and including February 2, 2011.

ORDERED that the appeal from the order of protection, and the appeal from so much of the order of fact-finding and disposition as directed the appellant to observe the conditions of behavior specified in the order of protection for a period not to exceed 12 months, are dismissed as academic, without costs or disbursements; and it is further,

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

March 29, 2011

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The appeal from the order of protection, and the appeal from so much of the order of fact-finding and disposition as directed the appellant to observe the conditions of behavior specified in the order of protection for a period not to exceed 12 months, have been rendered academic by the passing of the time limits contained therein (see *Matter of Zieran v Marvin*, 2 AD3d 870, 871-872). Nevertheless, even though the order of protection has expired, “in light of the enduring consequences which may flow from an adjudication that a party has committed a family offense,” the appeal from so much of the order of fact-finding and disposition as made that adjudication is not academic (*Matter of Pastore v Russo*, 38 AD3d 556, 556; see *Matter of Rochester v Rochester*, 26 AD3d 387, 387-388; *Matter of Kravitz v Kravitz*, 18 AD3d 874, 875; *Matter of Zieran v Marvin*, 2 AD3d at 871-872).

The determination of whether a family offense was committed is a factual issue to be resolved by the Family Court, and that court’s determination regarding the credibility of witnesses is entitled to great weight on appeal unless clearly unsupported by the record (see *Matter of Creighton v Whitmore*, 71 AD3d 1141). Here, a fair preponderance of the credible evidence adduced at the fact-finding hearing supported a finding that the appellant committed the family offense of harassment in the second degree (see Penal Law § 240.26[1]; *Matter of Gonzalez v Acosta*, 73 AD3d 921, 921-922; *Matter of Halper v Halper*, 61 AD3d 687; *Matter of Wissink v Wissink*, 13 AD3d 461).

MASTRO, J.P., SKELOS, BALKIN and ROMAN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court