

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

D30866  
C/prt

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

Submitted - March 29, 2011

MARK C. DILLON, J.P.  
ANITA R. FLORIO  
CHERYL E. CHAMBERS  
ROBERT J. MILLER, JJ.

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2010-06716  
2010-08831

DECISION & ORDER

In the Matter of Steven M. McFadden, appellant,  
v James John McFadden, respondent.  
(Proceeding No. 1)

In the Matter of Steven M. McFadden, appellant,  
v Michael John McFadden, respondent.  
(Proceeding No. 2)

(Docket Nos. O-21844-09, O-21854-09)

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Carol Kahn, New York, N.Y., for appellant.

Frank A. Buono, Staten Island, N.Y., for respondent James John McFadden.

Edward E. Caesar, Brooklyn, N.Y. (Jacquelyn R. Bullock of counsel), for respondent Michael John McFadden.

In two related family offense proceedings pursuant to Family Court Act article 8, the petitioner appeals from two orders (one in each proceeding) of the Family Court, Kings County (Feldman, J.H.O.), both dated June 14, 2010, which, without a hearing, denied the petitions and dismissed the proceedings.

ORDERED that the orders are reversed, on the law, without costs or disbursements, the petitions are reinstated, and the matters are remitted to the Family Court, Kings County, for

April 19, 2011

Page 1.

MATTER OF McFADDEN v McFADDEN  
MATTER OF McFADDEN v McFADDEN

further proceedings consistent herewith.

The factual allegations contained in the petitions were sufficient to allege family offenses enumerated in Family Court Act § 812(1) (*see* Family Ct Act § 812[1][a]; *Matter of Testman v Roman*, 78 AD3d 719, 720, *lv denied* 16 NY3d 703; *cf. Matter of Vasciannio v Nedrick*, 305 AD2d 420, 421; *Matter of Davis v Venditto*, 45 AD3d 837, 838). Accordingly, the Family Court erred in denying the petitions and dismissing the proceedings.

DILLON, J.P., FLORIO, CHAMBERS and MILLER, 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