

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

D32044
H/prt

_____AD3d_____

Submitted - June 21, 2011

WILLIAM F. MASTRO, J.P.
CHERYL E. CHAMBERS
LEONARD B. AUSTIN
JEFFREY A. COHEN, JJ.

2010-04211
2010-04212
2010-04214

DECISION & ORDER

In the Matter of Shana L. Knibbs, respondent,
v Craig Zeman, appellant.

(Docket Nos. O-142-09, O-143-09)

Del Atwell, East Hampton, N.Y., for appellant.

Richard N. Lentino, Middletown, N.Y., for respondent.

Jessica Bacal, Katonah, N.Y., attorney for the child.

In a family offense proceeding pursuant to Family Court Act article 8, the father appeals from (1) an order of fact-finding of the Supreme Court, Orange County (IDV Part) (Bivona, J.), dated March 25, 2010, which, after a fact-finding and dispositional hearing, found that he had committed the family offense of reckless endangerment based on his violation of previous orders of protection, (2) an order of disposition of the same court, also dated March 25, 2010, which directed the issuance of an order of protection in favor of the mother and the subject child for a period of five years, and (3) an order of disposition of the same court, also dated March 25, 2010, which placed him on probation under the supervision of the Orange County Department of Probation for a period of one year.

ORDERED that the orders are affirmed, without costs or disbursements.

A family offense must be established by a fair preponderance of the evidence (*see*

July 12, 2011

MATTER OF KNIBBS v ZEMAN

Page 1.

Family Ct Act § 832; *Matter of Rubackin v Rubackin*, 62 AD3d 11, 13). Here, the Supreme Court properly determined that the petitioner proved by a preponderance of the evidence that the father committed an act constituting the family offense of reckless endangerment, which warranted an order of protection in favor of the mother and the subject child for a period of five years and placing the father on probation for a period of one year (see Family Ct Act §§ 812[1], 841[c], [d]; *Matter of Gowrie v Squires*, 71 AD3d 1023).

Contrary to the father's contention, the constitutional protection against double jeopardy presented no bar to the family offense proceeding (see *People v Wood*, 95 NY2d 509, 512-513; *Matter of Schneider v Arata*, 81 AD3d 652; *Matter of Alfeo v Alfeo*, 306 AD2d 471).

MASTRO, J.P., CHAMBERS, AUSTIN and COHEN, 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