

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

D32757
H/ct

_____AD3d_____

Submitted - October 17, 2011

PETER B. SKELOS, J.P.
L. PRISCILLA HALL
PLUMMER E. LOTT
SHERI S. ROMAN, JJ.

2010-07934

DECISION & ORDER

In the Matter of Tracey Scioscia, respondent, v
Dante Scioscia, appellant.

(Docket No. O-05445-10)

Gina M. Scelta, Centerport, N.Y., for appellant.

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 (Genchi, J.), dated July 19, 2010, which, after a fact-finding hearing and upon a finding that he had committed the family offense of harassment in the second degree, directed him, inter alia, to stay away from the wife and her residence until and including July 19, 2011.

ORDERED that the order of protection is affirmed, without costs or disbursements.

Although the order of protection expired by its own terms on July 19, 2011, the appeal has not been rendered academic in light of the enduring consequences which may potentially flow from a finding that the appellant committed a family offense (*see Matter of Willis v Rhinehart*, 76 AD3d 641, 642; *Matter of Wallace v Wallace*, 45 AD3d 599; *Matter of DeSouza-Brown v Brown*, 38 AD3d 888).

“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” (*Matter of Bibolova v Radu*, 82 AD3d 1222, 1223; *see Matter of Creighton v Whitmore*, 71 AD3d 1141, 1141). Here, a fair preponderance of the credible evidence adduced at the fact-finding hearing supported the

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Family Court's determination that the appellant committed the family offense of harassment in the second degree, warranting the issuance of an order of protection (*see Matter of Williams v Maise*, 85 AD3d 933, 934; *Matter of Yalvac v Yalvac*, 83 AD3d 853, 854; *Matter of Kaur v Singh*, 73 AD3d 1178).

The appellant's remaining contentions are without merit.

SKELOS, J.P., HALL, LOTT and ROMAN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court