

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

D33832  
H/prt

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Submitted - January 17, 2012

MARK C. DILLON, J.P.  
JOHN M. LEVENTHAL  
ARIEL E. BELEN  
PLUMMER E. LOTT, JJ.

2011-04593  
2011-04594

DECISION & ORDER

In the Matter of Lionel King, respondent,  
v Keith Edwards, appellant.

(Docket No. O-31089-10)

Joel Borenstein, Brooklyn, N.Y., for appellant.

Virginia Geiss, Brooklyn, N.Y., for respondent.

In a family offense proceeding pursuant to Family Court Act article 8, Keith Edwards appeals from (1) an order of fact-finding and disposition of the Family Court, Kings County (Cammer, J.H.O.), dated March 16, 2011, which, after a hearing, found that he 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 of the same court dated March 16, 2011, for a period not to exceed three months, and (2) the order of protection dated March 16, 2011, which, inter alia, directed him to refrain from assaulting, stalking, or harassing the petitioner for a period up to and including June 16, 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 set forth in the order of protection for a period not to exceed three 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.

February 14, 2012

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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 set forth in the order of protection for a period not to exceed three months, have been rendered academic by the passing of the time limits contained therein (*see Matter of Bibolova v Radu*, 82 AD3d 1222, 1222-1223; *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 Bibolova v Radu*, 82 AD3d at 1223; *Matter of Rochester v Rochester*, 26 AD3d 387).

The Family Court properly exercised subject matter jurisdiction over this proceeding, as the evidence in the record clearly established that the alleged family offense occurred in Brooklyn, and, in any event, a Family Court's subject matter jurisdiction over a family offense is not limited by geography (*see Matter of Richardson v Richardson*, 80 AD3d 32, 41-42).

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[3]*; *Matter of Clarke v Clarke*, 8 AD3d 375; *Matter of DeNobile v Tenaglia*, 299 AD2d 409).

DILLON, J.P., LEVENTHAL, BELEN and LOTT, JJ., concur.

ENTER:



Aprilanne Agostino  
Clerk of the Court