

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

D34103
N/kmb

_____AD3d_____

Submitted - February 9, 2012

PETER B. SKELOS, J.P.
THOMAS A. DICKERSON
RANDALL T. ENG
SANDRA L. SGROI, JJ.

2011-06469

DECISION & ORDER

In the Matter of Wafa H. Daoud, respondent,
v Bashir Haj Daoud, appellant.

(Docket No. O-09660-09/11G)

William C. McCulloh, P.C., West Babylon, N.Y., for appellant.

Wafa H. Daoud, Wantagh, N.Y., respondent pro se.

In a family offense proceeding pursuant to Family Court Act article 8, Bashir Haj Daoud appeals from an order of protection of the Family Court, Nassau County (Zimmerman, J.), dated June 6, 2011, which, after a hearing, and, in effect, upon a finding that he had committed a family offense, directed him, inter alia, to stay away from the petitioner until and including June 5, 2012.

ORDERED that the order of protection is reversed, on the law, without costs or disbursements, the petition is denied, and the proceeding is dismissed.

The allegations in a family offense proceeding seeking the issuance of an order of protection must be “supported by a fair preponderance of the evidence” (Family Ct Act § 832; *see Matter of Aruti v Aruti*, 88 AD3d 700, 701; *Matter of Ungar v Ungar*, 80 AD3d 771; *Matter of Pearlman v Pearlman*, 78 AD3d 711, 712; *Matter of Thomas v Thomas*, 72 AD3d 834, 835). “Only competent, material and relevant evidence may be admitted in a fact-finding hearing” (Family Ct Act § 834; *see Matter of Belinda YY. v Lee ZZ.*, 74 AD3d 1394, 1395).

Here, the evidence submitted in support of the petition consisted solely of inadmissible hearsay. The petitioner therefore failed to establish the allegations in the petition by

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competent evidence (*see* Family Ct Act § 834; *Matter of Belinda YY. v Lee ZZ.*, 74 AD3d at 1395; *Dorene L. v Dhaneswar R.*, 29 Misc 3d 462, *affd* 89 AD3d 428). Accordingly, the order of protection must be reversed, the petition denied, and the proceeding dismissed.

SKELOS, J.P., DICKERSON, ENG and SGROI, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court