

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

D34439  
H/kmb

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

Submitted - March 2, 2012

ANITA R. FLORIO, J.P.  
PLUMMER E. LOTT  
SANDRA L. SGROI  
ROBERT J. MILLER, JJ.

---

2010-10230

DECISION & ORDER

In the Matter of Laurie J. Muller, appellant,  
v Robert J. Castagnola, respondent.

(Docket No. O-10190-10)

---

Laurie J. Muller, West Babylon, N.Y., appellant pro se.

Cronin & Byczek, LLP, Lake Success, N.Y. (Dominick Revellino of counsel), for respondent.

Cheryl L. Kreger, Jericho, N.Y., attorney for the child.

In a family offense proceeding pursuant to Family Court Act article 8, the mother appeals from an order of the Family Court, Nassau County (Eisman, J.), dated October 19, 2010, which, without a hearing, dismissed the petition.

ORDERED that the order is reversed, on the law, without costs or disbursements, the petition is reinstated, and the matter is remitted to the Family Court, Nassau County, for a hearing and a new determination on the petition thereafter.

In her family offense petition, the mother indicated that an order of protection against the father was due to expire, and she sought a new order of protection based upon the allegations in the petition, which, if proven true, would constitute family offenses. Thus, it was error for the Family Court to summarily deny the petition, and the court should have afforded the petitioner the opportunity to be heard with respect to her allegations (*see Matter of Little v Renz*, 90 AD3d 757; *Matter of Czaban v Czaban*, 44 AD3d 937). Accordingly, the matter must be remitted to the Family

April 10, 2012

Page 1.

MATTER OF MULLER v CASTAGNOLA

Court, Nassau County, for a hearing and a new determination on the petition thereafter.

FLORIO, J.P., LOTT, SGROI and MILLER, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court