

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

D34941
C/kmb

_____AD3d_____

Submitted - April 13, 2012

MARK C. DILLON, J.P.
ANITA R. FLORIO
PLUMMER E. LOTT
SANDRA L. SGROI, JJ.

2011-05436

DECISION & ORDER

In the Matter of Lisa Nettles, respondent,
v Shaomari Fearington, appellant.

(Docket No. O-20029-10)

Susan A. DeNatale, Mastic, N.Y., for appellant.

Francine H. Moss, Ronkonkoma, N.Y., for respondent.

In a family offense proceeding pursuant to Family Court Act article 8, Shaomari Fearington appeals from an order of protection of the Family Court, Suffolk County (Burke, Ct. Atty. Ref.), dated May 24, 2011, which, after a hearing, and, in effect, upon a finding that he had committed the family offenses of disorderly conduct, harassment in the first degree, and harassment in the second degree, directed him, inter alia, to stay away from the petitioner until and including May 10, 2013.

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

“The determination of whether a family offense was committed is a factual issue to be resolved by the Family Court, and its determinations regarding the credibility of witnesses are entitled to great weight on appeal” (*Matter of Genzen v Genzen*, 74 AD3d 1196, 1196). Here, the Family Court properly, in effect, found, by a preponderance of the evidence, that the appellant committed the family offenses of disorderly conduct, harassment in the first degree, and harassment in the second degree, warranting the issuance of the order of protection (*see* Family Ct Act § 842; Penal Law §§ 240.20, 240.25, 240.26; *Matter of Hunt v Hunt*, 51 AD3d 924, 925; *Matter of Bonsignore v Bonsignore*, 37 AD3d 602; *Matter of De La Cruz v Colon*, 16 AD3d 496).

Since the Family Court did not find that the appellant committed the family offense

May 15, 2012

Page 1.

MATTER OF NETTLES v FEARRINGTON

of aggravated harassment in the second degree, we need not reach the appellant's contention regarding that family offense.

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

ENTER:


Aprilanne Agostino
Clerk of the Court