

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

D35285  
O/kmb

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Submitted - May 17, 2012

DANIEL D. ANGIOLILLO, J.P.  
ARIEL E. BELEN  
SHERI S. ROMAN  
SANDRA L. SGROI, JJ.

2011-11296

DECISION & ORDER

In the Matter of Blanca Cruz, respondent,  
v Arcadio Rodriguez, appellant.

(Docket No. O-4071-11)

Larry S. Bachner, Jamaica, N.Y., for appellant.

Dean Kusakabe, Forest Hills, N.Y., for respondent.

In a family offense proceeding pursuant to Family Court Act article 8, Arcadio Rodriguez appeals from an order of protection of the Family Court, Queens County (Lebwohl, J.), dated November 16, 2011, which, after a hearing and, in effect, upon a finding that he had committed the family offenses of menacing in the third degree and disorderly conduct, directed him, inter alia, to stay away from the petitioner until and including November 16, 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 hearing court” (*Matter of Creighton v Whitmore*, 71 AD3d 1141, 1141; see Family Ct Act §§ 812, 832; *Matter of Armstrong v Ewing*, 82 AD3d 1092; *Matter of Kaur v Singh*, 73 AD3d 1178), and that court’s determination regarding the credibility of witnesses is entitled to considerable deference on appeal (see *Matter of Creighton v Whitmore*, 71 AD3d at 1141; see *Matter of Kaur v Singh*, 73 AD3d at 1178). Contrary to the appellant’s contention, a fair preponderance of the credible evidence supported the Family Court’s determination that he committed acts which constituted the family offenses of menacing in the third degree and disorderly conduct, warranting the issuance of an order of protection (see Penal Law §§ 120.15, 240.20; Family Ct Act 812[1]; *Matter of Armstrong v Ewing*, 82 AD3d at 1093; *Matter of Pearlman v Pearlman*, 78 AD3d 711; *Matter of Kaur v Singh*, 73 AD3d at 1178).

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The appellant's remaining contention is without merit.

ANGIOLILLO, J.P., BELEN, ROMAN and SGROI, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court