

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

**471**

**CAF 24-00333**

PRESENT: CURRAN, J.P., BANNISTER, SMITH, DELCONTE, AND HANNAH, JJ.

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IN THE MATTER OF RAVEN A. SMITH,  
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

RICHARD P. LUCIVERO, RESPONDENT-APPELLANT.

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CHARLES J. GREENBERG, AMHERST, FOR RESPONDENT-APPELLANT.

GARY MULDOON, ROCHESTER, ATTORNEY FOR THE CHILDREN.

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Appeal from an order of the Family Court, Erie County (Kelly A. Brinkworth, J.), entered February 9, 2024, in a proceeding pursuant to Family Court Act article 8. The order committed respondent to a jail term of six months and stayed that commitment for two years on the condition that respondent not violate an order of protection.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: In this proceeding pursuant to Family Court Act article 8, respondent father appeals from an order committing him to a jail term of six months upon Family Court's prior finding that he willfully violated a temporary order of protection in favor of petitioner mother. The commitment was stayed for a period of two years on the condition that the father not violate a subsequent order of protection. According the requisite deference to the court's credibility determinations at the fact-finding hearing (*see Matter of Schoenl v Schoenl*, 136 AD3d 1361, 1362 [4th Dept 2016]), we conclude that the court properly determined that the mother established by clear and convincing evidence that the father violated the terms of the temporary order of protection (*see Matter of Tristyn R. [Joshua R.]*, 145 AD3d 1611, 1611-1612 [4th Dept 2016]; *cf. Matter of Lanzafame v Jones*, 121 AD3d 1598, 1598 [4th Dept 2014], *lv denied* 24 NY3d 913 [2015]).

Entered: June 6, 2025

Ann Dillon Flynn  
Clerk of the Court