

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

1612

CAF 09-00313

PRESENT: SCUDDER, P.J., CENTRA, FAHEY, CARNI, AND PINE, JJ.

IN THE MATTER OF LISA A. SCROGER,
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

JERRY K. SCROGER, RESPONDENT-APPELLANT.

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

MICHAEL STEINBERG, ROCHESTER, FOR PETITIONER-RESPONDENT.

Appeal from an order of the Family Court, Genesee County (Eric R. Adams, J.), entered January 9, 2009 in a proceeding pursuant to Family Court Act article 8. The order of protection directed respondent to observe certain conditions of behavior.

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

Memorandum: Respondent husband appeals from an order in this proceeding pursuant to Family Court Act article 8 determining that he committed the family offenses of disorderly conduct and criminal mischief against petitioner wife. Contrary to the husband's contention, the wife established by a preponderance of the evidence that the husband engaged in acts constituting those crimes (*see Matter of Harrington v Harrington*, 63 AD3d 1618, 1619, *lv denied* 13 NY3d 705; *Matter of Danielle S. v Larry R.S.*, 41 AD3d 1188). Family Court's assessment of the credibility of the witnesses is entitled to great weight, and the court was entitled to credit the testimony of the wife over that of the husband (*see Danielle S.*, 41 AD3d at 1189; *Matter of Arlene E. v Ralph E.*, 17 AD3d 1104).

Entered: December 30, 2009

Patricia L. Morgan
Clerk of the Court