

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

1065

CAF 18-00963

PRESENT: SMITH, J.P., PERADOTTO, DEJOSEPH, NEMOYER, AND WINSLOW, JJ.

IN THE MATTER OF TRACY A. RIGGINS,
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

CLINTON J. DOWNING, RESPONDENT-APPELLANT.

PAUL B. WATKINS, FAIRPORT, FOR RESPONDENT-APPELLANT.

CHRISTINE F. REDFIELD, ROCHESTER, FOR PETITIONER-RESPONDENT.

Appeal from an order of the Family Court, Monroe County (James A. Vazzana, J.), entered October 25, 2017 in a proceeding pursuant to Family Court Act article 8. The order, among other things, directed respondent to stay away from petitioner.

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

Memorandum: Respondent appeals from an order of protection issued upon a finding that he committed the family offense of harassment in the second degree under Penal Law § 240.26 (1). We affirm. Contrary to respondent's contention, petitioner established by a fair preponderance of the evidence that respondent committed harassment in the second degree (*see Matter of Joan WW. v Peter WW.*, 173 AD3d 1380, 1381-1382 [3d Dept 2019]; *cf. Matter of Shephard v Ray*, 137 AD3d 1715, 1716 [4th Dept 2016]). We have considered respondent's remaining contentions and conclude that none warrants reversal or modification of the order of protection.

Entered: November 8, 2019

Mark W. Bennett
Clerk of the Court