

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT

Matter of E.O. v. O.O.

2026 NY Slip Op 02928 · No. Docket No. O-10573/24; Appeal No. 6590; Case No. 2024-07854 · Decided May 12, 2026

SUMMARY

The Appellate Division, First Department unanimously affirmed the dismissal of a family offense petition and the vacatur of a temporary order of protection. The court held that petitioner failed to establish by a fair preponderance of the evidence that respondent committed acts warranting an order of protection and found no basis to disturb the lower court's credibility determinations.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Scarpulla, J.P.; Mendez, J.; Shulman, J.; Rodriguez, J.; Hagler, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	May 12, 2026
DOCKET	Docket No. O-10573/24; Appeal No. 6590; Case No. 2024-07854
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of Family Court, Bronx County, dismissing a family offense petition and vacating a temporary order of protection.
STANDARD OF REVIEW	The Appellate Division reviewed the Family Court's fact findings and credibility determinations and found no basis to disturb them; the petitioner bore the burden of proving the alleged family offense by a fair preponderance of the evidence.
PRECEDENTIAL VALUE	Published Appellate Division decision; the opinion states that it is uncorrected and subject to revision before publication in the Official Reports.
PARTIES	E.O. v. O.O.

TOPICS

- family law procedure domestic violence appellate procedure standard of review burden of proof

PRACTICE AREAS

Family law

Family offense proceedings

Orders of protection

Appellate review

QUESTIONS PRESENTED

1. Whether Family Court properly dismissed the family offense petition for failure to prove by a fair preponderance of the evidence that respondent committed a qualifying family offense or acts warranting an order of protection.
2. Whether the Appellate Division had a basis to disturb Family Court's credibility determination favoring respondent over petitioner.

HOLDINGS

1. Family Court properly dismissed the petition because petitioner failed to establish by a fair preponderance of the evidence that respondent committed any acts warranting an order of protection in petitioner's favor.
2. The Appellate Division found no basis to disturb Family Court's finding that respondent was more credible than petitioner.

KEY QUOTATIONS

*“Family Court properly dismissed the family offense petition, as petitioner failed to establish by a fair preponderance of the evidence that respondent had committed any acts warranting an order of protection in petitioner's favor” ([*1])*

FACTUAL BACKGROUND

Petitioner sought an order of protection based on alleged family-offense conduct by respondent. After a fact-finding hearing, Family Court credited respondent over petitioner and determined that petitioner had not established that respondent committed any family offense or acts warranting an order of protection.

PROCEDURAL HISTORY

Following a fact-finding hearing, Family Court found that petitioner failed to establish that respondent committed a family offense, dismissed the petition, and vacated the temporary order of protection. Petitioner appealed, and the Appellate Division unanimously affirmed without costs.

DISPOSITION

affirmed

CASES CITED

- Matter of Tawanna R. v. Michael E.G., 226 A.D.3d 524, 524 (1st Dep't 2024)
- Matter of Sherida L. v. Hoggarth S., 237 A.D.3d 541, 542 (1st Dep't 2025)

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