

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, SECOND JUDICIAL DEPARTMENT

Matter of Kenneth Shaw v. Trevor Shaw

Matter of Shaw v. Shaw, 2025 NY Slip Op 07389 (Appellate Division of the Supreme Court of the State of New York Second Judicial Department 2025) · No. 2024-11499 · Decided December 31, 2025

SUMMARY

The Appellate Division, Second Department affirmed an order of the Family Court, Kings County, that denied a Family Court Act article 8 petition and dismissed the proceeding. The court held that the petitioner failed to establish by a fair preponderance of the evidence that his brother committed a family offense and declined to disturb the Family Court's credibility determination.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Second Judicial Department
WRITING FOR THE COURT	Lara J. Genovesi, J.P.; Lillian Wan, J.; Lourdes M. Ventura, J.; Susan Quirk, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	December 31, 2025
DOCKET	2024-11499
DISPOSITION	affirmed
PROCEDURAL POSTURE	The petitioner appealed from a Family Court order that, after a hearing, effectively denied his Family Court Act article 8 petition and dismissed the proceeding.
STANDARD OF REVIEW	A Family Court determination regarding whether a family offense was committed is a factual determination, and its credibility findings are entitled to great weight on appeal and will not be disturbed unless clearly unsupported by the record.
PRECEDENTIAL VALUE	published
PARTIES	Kenneth Shaw v. Trevor Shaw

TOPICS

family law procedure

domestic violence

burden of proof

standard of review

appellate procedure

PRACTICE AREAS

family law

family offense proceedings

appellate review

QUESTIONS PRESENTED

1. Whether the Family Court's determination that the petitioner failed to prove by a fair preponderance of the evidence that the respondent committed a family offense was supported by the record.
2. Whether the Family Court's credibility determination should be disturbed on appeal.

HOLDINGS

1. The petitioner failed to establish by a fair preponderance of the evidence that his brother committed a family offense, and the Family Court's determination was supported by the record.
2. The Family Court's credibility determination was entitled to great weight and provided no basis for appellate disturbance because it was not clearly unsupported by the record.

KEY QUOTATIONS

“The determination of whether a family offense was committed is a factual issue to be resolved by the Family Court, and its determinations regarding the credibility of witnesses are entitled to great weight on appeal, such that they will not be disturbed unless clearly unsupported by the record” ([*1])

FACTUAL BACKGROUND

Kenneth Shaw commenced a Family Court Act article 8 proceeding alleging that his brother, Trevor Shaw, committed a family offense. Kenneth was the only witness at the hearing. The Family Court found Kenneth not credible and determined that he failed to establish by a preponderance of the evidence that Trevor committed a family offense.

PROCEDURAL HISTORY

Kenneth Shaw commenced a family offense proceeding against his brother, Trevor Shaw, in Family Court, Kings County. After a hearing at which the petitioner was the only witness, the Family Court found him not credible and entered an order dated October 18, 2024, effectively denying the petition and dismissing the proceeding. The Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- Matter of Singh v Kaur, 213 AD3d 771, 771
- Matter of Porter v Moore, 149 AD3d 1082, 1083

- Matter of Limanov v Limanov, 225 AD3d 872
- Matter of Paek v Alicea, 225 AD3d 877, 878-879
- Matter of Goldring v Sprei, 121 AD3d 894, 895
- Matter of Townes v Diggs, 216 AD3d 1104, 1105
- M.B. v L.T., 152 AD3d 475, 476

OPINION

PER CURIAM.

Matter of Shaw v Shaw (2025 NY Slip Op 07389) Matter of Shaw v Shaw 2025 NY Slip Op 07389 Decided on December 31, 2025 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on December 31, 2025 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department LARA J. GENOVESI, J.P.

LILLIAN WAN LOURDES M. VENTURA SUSAN QUIRK, JJ. 2024-11499 (Docket No. O-3645-22) [*1]In the Matter of Kenneth Shaw, appellant, v Trevor Shaw, respondent. Cheryl Charles-Duval, Brooklyn, NY, for appellant. DECISION & ORDER In a proceeding pursuant to Family Court Act article 8, the petitioner appeals from an order of the Family Court, Kings County (Gregory L. Gliedman, J.), dated October 18, 2024.

The order, after a hearing, in effect, denied the petition and dismissed the proceeding. ORDERED that the order is affirmed, without costs or disbursements. The petitioner commenced this proceeding pursuant to Family Court Act article 8 against his brother.

After a hearing, the Family Court determined that the petitioner, who was the only witness, was not credible. In an order dated October 18, 2024, the court, in effect, denied the petition and dismissed the proceeding.

The petitioner appeals. The allegations in a family offense proceeding must be "supported by a fair preponderance of the evidence" (id. § 832; see Matter of Singh v Kaur, 213 AD3d 771, 771). "The determination of whether a family offense was committed is a factual issue to be resolved by the Family Court, and its determinations regarding the credibility of witnesses are entitled to great weight on appeal, such that they will not be disturbed unless clearly unsupported by the record" (Matter of Porter v Moore, 149 AD3d 1082, 1083; see Matter of Limanov v Limanov, 225 AD3d 872).

Here, the Family Court's determination that the petitioner failed to establish, by a preponderance of the evidence, that his brother committed a family offense was supported by the record (see

Matter of Paek v Alicea, 225 AD3d 877, 878-879; Matter of Goldring v Sprei, 121 AD3d 894, 895).

We discern no basis for disturbing the court's credibility determination (see Matter of Townes v Diggs, 216 AD3d 1104, 1105; M.B. v L.T., 152 AD3d 475, 476). Accordingly, the court properly, in effect, denied the petition and dismissed the proceeding. GENOVESI, J.P., WAN, VENTURA and QUIRK, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court

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We discern no basis for disturbing the court's credibility determination (see Matter of Townes v Diggs, 216 AD3d 1104, 1105; M.B. v L.T., 152 AD3d 475, 476). Accordingly, the court properly, in effect, denied the petition and dismissed the proceeding. GENOVESI, J.P., WAN, VENTURA and QUIRK, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court