

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

Matter of Pascal W. v. Carlos M.-J.

2026 NY Slip Op 02384 (1st Dep't 2026) · No. Docket No. O-05047/22; Appeal No. 6413; Case No. 2025-02470 · Decided April 21, 2026

SUMMARY

The Appellate Division, First Department unanimously affirmed a Family Court order finding that Carlos M.-J. committed a family offense constituting second-degree harassment, suspending judgment for six months, and issuing a six-month order of protection. The court held that the appeal was not moot despite the order's expiration and concluded that the finding was supported by a fair preponderance of the evidence.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Renwick, P.J.; Friedman, J.; Gesmer, J.; Pitt-Burke, J.; Hagler, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	April 21, 2026
DOCKET	Docket No. O-05047/22; Appeal No. 6413; Case No. 2025-02470
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a Family Court order entered after a fact-finding hearing determining that respondent committed a family offense, suspending judgment for six months, and issuing a six-month order of protection.
STANDARD OF REVIEW	The family-offense finding was reviewed under the fair-preponderance-of-the-evidence standard, with substantial deference given to Family Court's credibility determinations. The issuance of the order of protection was reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published
PARTIES	Carlos M.-J. v. Pascal W.

TOPICS

- domestic violence
- family law procedure
- mootness
- appellate procedure
- remedies

PRACTICE AREAS

family law

domestic violence

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remedies

QUESTIONS PRESENTED

1. Whether expiration of the six-month order of protection rendered the appeal moot.
2. Whether a fair preponderance of the evidence established that respondent committed second-degree harassment as a family offense.
3. Whether Family Court providently exercised its discretion in issuing a six-month order of protection.

HOLDINGS

1. The appeal was not moot because the underlying finding that respondent committed a family offense could prompt severely deleterious future legal rulings against him.
2. A fair preponderance of the evidence supported the finding that respondent committed a family offense by intentionally bumping into petitioner for no legitimate purpose, constituting harassment in the second degree.
3. Family Court providently exercised its discretion in issuing a six-month order of protection after finding that respondent committed a family offense.

KEY QUOTATIONS

*“The expiration of the order of protection by its own terms did not render this appeal moot, as the order finding that respondent committed a family offense can “prompt severely deleterious future legal rulings against” him” ([*1])*

FACTUAL BACKGROUND

As the parties passed each other on a sidewalk, respondent moved toward petitioner, intentionally bumped into him, and pushed him to the left without a legitimate purpose. Petitioner's witness testified to the incident, and Family Court found respondent less credible than petitioner and the witness.

PROCEDURAL HISTORY

Family Court, New York County, determined after a fact-finding hearing that Carlos M.-J. committed a family offense act constituting harassment in the second degree. The court suspended judgment for six months and issued an order of protection effective for that period. Carlos M.-J. appealed, and the Appellate Division unanimously affirmed without costs.

DISPOSITION

affirmed

CASES CITED

- Matter of Veronica P. v. Radcliff A., 24 NY3d 668, 671-672 [2015]
- Matter of Edward B. v. Elizabeth T., 156 AD3d 423, 424 [1st Dept 2017]
- Matter of R.H. v. M.C.H., 239 AD3d 577, 578 [1st Dept 2025]
- Matter of Miriam M. v. Warren M., 51 AD3d 581, 582 [1st Dept 2008]

OPINION

PER CURIAM.

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Matter of Pascal W. v Carlos M.-J.

2026 NY Slip Op 02384

April 21, 2026

Appellate Division, First Department

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This decision is uncorrected and subject to revision before publication in the Official Reports.

In the Matter of Pascal W., Respondent,

v

Carlos M.-J., Appellant.

Decided and Entered: April 21, 2026

Docket No. O-05047/22|Appeal No. 6413|Case No. 2025-02470|

Before: Renwick, P.J., Friedman, Gesmer, Pitt-Burke, Hagler, JJ.

Law Office of Lewis S. Calderon, Jamaica (Lewis Calderon of counsel), for appellant.

[*1]

Order, Family Court, New York County (Jacob K. Maeroff, Ref.), entered on or about April 8, 2025, which, after a fact-finding hearing, determined that respondent committed a family offense act that would constitute harassment in the second degree, suspended judgment for six months, and issued an order of protection to be in effect during the six-month period, unanimously affirmed, without costs.

The expiration of the order of protection by its own terms did not render this appeal moot, as the order finding that respondent committed a family offense can "prompt severely deleterious future legal rulings against" him (*Matter of Veronica P. v Radcliff A.*, 24 NY3d 668, 671-672 [2015]).

Nevertheless, a fair preponderance of the evidence supports the finding that respondent committed a family offense by performing an act that constitutes second-degree harassment by intentionally bumping into petitioner for no legitimate purpose (Family Court Act § 812; Penal Law § 240.26[1]; *see Matter of Edward B. v Elizabeth T.*, 156 AD3d 423, 424 [1st Dept 2017]).

Petitioner's witness testified that as the parties passed each other on the sidewalk, respondent moved towards petitioner, bumped into him, and "kind of shove[d] him... to the left." The court's

credibility determination that respondent was less credible than petitioner and the witness is entitled to great deference and there is no basis to disturb it (*see* *Matter of R.H. v M.C.H.*, 239 AD3d 577, 578 [1st Dept 2025]).

Family Court providently exercised its discretion in issuing a six-month order of protection upon finding that respondent committed a family offense (Family Court Act § 842[a]; *see* *Matter of Miriam M. v Warren M.*, 51 AD3d 581, 582 [1st Dept 2008]).

We have considered respondent's remaining contentions and find them unavailing.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: April 21, 2026

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