

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

Matter of Heather L. Reader v. Jeffrey S. Reader

2025 NY Slip Op 07127 (N.Y. Ct. App. 2025) · No. 695 CAF 23-01326 · Decided December 23, 2025

SUMMARY

The Appellate Division, Fourth Department reversed a Family Court order finding that Jeffrey S. Reader committed harassment in the second degree through public Facebook posts, violated a temporary order of protection, and owed petitioner attorneys' fees. The court held that petitioner failed to prove the family offense by a preponderance of the evidence and dismissed the petitions.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
WRITING FOR THE COURT	Lindley, J.P.; Montour, J.; Ogden, J.; Greenwood, J.; Hannah, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Fourth Department
DECIDED	December 23, 2025
DOCKET	695 CAF 23-01326
DISPOSITION	reversed
PROCEDURAL POSTURE	Respondent appealed from a Family Court order finding that he committed the family offense of harassment in the second degree, finding that he violated a temporary order of protection, and directing him to pay petitioner's attorneys' fees.
STANDARD OF REVIEW	The Appellate Division reviewed whether petitioner established the family offense by a preponderance of the evidence and reversed on the law after concluding that the evidence was legally insufficient to establish harassment in the second degree.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	Jeffrey S. Reader v. Heather L. Reader

TOPICS

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

PRACTICE AREAS

Family law

family offenses

appellate practice

QUESTIONS PRESENTED

1. Whether petitioner established by a preponderance of the evidence that respondent committed harassment in the second degree based on public Facebook posts.
2. Whether respondent violated the temporary order of protection.
3. Whether petitioner was entitled to an award of attorneys' fees.

HOLDINGS

1. Petitioner failed to establish by a preponderance of the evidence that respondent engaged in acts constituting harassment in the second degree.
2. Respondent did not violate the temporary order of protection.
3. Petitioner was not entitled to an award of attorneys' fees.

KEY QUOTATIONS

*“A petitioner bears the burden of proving by a preponderance of the evidence that respondent committed a family offense” (*1)*

*“We conclude under the circumstances of this case that the evidence presented by petitioner failed to establish by a preponderance of the evidence that respondent engaged in acts constituting harassment in the second degree” (*1)*

FACTUAL BACKGROUND

Petitioner alleged that respondent committed the family offense of harassment in the second degree based on public Facebook posts. The Family Court determined that respondent committed the family offense and violated a temporary order of protection, and it directed him to pay petitioner's attorneys' fees. The Appellate Division concluded that petitioner failed to prove by a preponderance of the evidence that respondent engaged in acts constituting harassment in the second degree.

PROCEDURAL HISTORY

The Family Court of Livingston County issued an order dated May 24, 2023, in a proceeding under Family Court Act article 8. The Appellate Division unanimously reversed the order on the law and dismissed the petitions.

DISPOSITION

reversed

REMAND INSTRUCTIONS

None; the order was reversed on the law and the petitions were dismissed.

CASES CITED

- Matter of Harvey v Harvey, 214 AD3d 1462, 1462 [4th Dept 2023]
- Matter of Geremski v Berardi, 219 AD3d 1713, 1714 [4th Dept 2023]
- Matter of Marquardt v Marquardt, 97 AD3d 1112, 1113-1114 [4th Dept 2012]
- Matter of Martin v Flynn, 133 AD3d 1369, 1370 [4th Dept 2015]

OPINION

PER CURIAM.

Matter of Reader v Reader (2025 NY Slip Op 07127) Matter of Reader v Reader 2025 NY Slip Op 07127 Decided on December 23, 2025 Appellate Division, Fourth 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 23, 2025 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Fourth Judicial Department PRESENT: LINDLEY, J.P., MONTOUR, OGDEN, GREENWOOD, AND HANNAH, JJ. 695 CAF 23-01326 [*1]IN THE MATTER OF HEATHER L. READER, PETITIONER-RESPONDENT, v JEFFREY S. READER, RESPONDENT-APPELLANT.

CHRISTOPHER K. RODEMAN, ROCHESTER, FOR RESPONDENT-APPELLANT. TREVETT CRISTO P.C., ROCHESTER (ERIC M. DOLAN OF COUNSEL), FOR PETITIONER-RESPONDENT. ALISON BATES, VICTOR, ATTORNEY FOR THE CHILDREN. Appeal from an order of the Family Court, Livingston County (Kevin Van Allen, J.), dated May 24, 2023, in a proceeding pursuant to Family Court Act article 8.

The order, among other things, directed respondent to pay attorneys' fees incurred by petitioner. It is hereby ORDERED that the order so appealed from is unanimously reversed on the law without costs and the petitions are dismissed. Memorandum: In this family offense proceeding pursuant to Family Court Act article 8, respondent appeals from an order that, inter alia, determined that he committed the family offense of harassment in the second degree against petitioner based on his public posts on Facebook and violated a temporary order of protection.

The order also directed respondent to pay attorneys' fees incurred by petitioner. We agree with respondent that petitioner did not establish that he committed the family offense in question. "A petitioner bears the burden of proving by a preponderance of the evidence that respondent committed a family offense" (Matter of Harvey v Harvey, 214 AD3d 1462, 1462 [4th Dept 2023] [internal quotation marks omitted]).

As relevant here, a "person is guilty of harassment in the second degree when, with intent to harass, annoy or alarm another person... [they] engage[] in a course of conduct or repeatedly

commit[] acts which alarm or seriously annoy such other person and which serve no legitimate purpose" (Penal Law § 240.26 [3]).

We conclude under the circumstances of this case that the evidence presented by petitioner failed to establish by a preponderance of the evidence that respondent engaged in acts constituting harassment in the second degree (see Matter of Geremski v Berardi, 219 AD3d 1713, 1714 [4th Dept 2023]; Matter of Marquardt v Marquardt, 97 AD3d 1112, 1113-1114 [4th Dept 2012]; cf. Matter of Martin v Flynn, 133 AD3d 1369, 1370 [4th Dept 2015]).

Given our determination, we further conclude that respondent did not violate the temporary order of protection and that petitioner is not entitled to an award of attorneys' fees (see Family Ct Act § 842 [f]). Entered: December 23, 2025 Ann Dillon Flynn Clerk of the Court

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