

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

Matter of Saini v. Singh

132 A.D.3d 686 (N.Y. App. Div. 2015) · No. 2014-10977 · Decided October 7, 2015

SUMMARY

The Appellate Division, Second Department, affirmed a Family Court order of protection issued against Harvinder Singh. The court held that the family offenses of attempted assault in the third degree, harassment in the second degree, and menacing in the third degree were established by a fair preponderance of the credible evidence, and that the appellant received meaningful representation of counsel.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Mark C. Dillon, J.P.; Cheryl E. Chambers, J.; L. Priscilla Hall, J.; Sylvia O. Hinds-Radix, J.
JURISDICTION	New York
DECIDED	October 7, 2015
DOCKET	2014-10977
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of protection issued by the Family Court, Queens County, after a hearing.
STANDARD OF REVIEW	Whether the family offenses were established by a fair preponderance of the credible evidence; whether the appellant was afforded meaningful representation of counsel.
PRECEDENTIAL VALUE	published appellate decision
PARTIES	Harvinder Singh v. Jaswinder Kaur Saini

TOPICS

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

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the evidence established Singh's commission of the charged family offenses by a fair preponderance of the credible evidence.
2. Whether Singh was afforded meaningful representation of counsel.
3. Whether the Family Court properly issued the order of protection.

HOLDINGS

1. Singh's commission of attempted assault in the third degree, harassment in the second degree, and menacing in the third degree was established by a fair preponderance of the credible evidence.
2. The record showed that Singh was afforded meaningful representation of counsel.
3. The Family Court properly issued the order of protection, and the order was affirmed.

FACTUAL BACKGROUND

After a hearing, the Family Court found that Harvinder Singh committed the family offenses of attempted assault in the third degree, harassment in the second degree, and menacing in the third degree against Jaswinder Kaur Saini. Based on those findings, the court issued an order of protection requiring Singh to stay away from Saini until and including October 16, 2016. The Appellate Division determined that the findings were supported by a fair preponderance of the credible evidence and that Singh received meaningful representation.

PROCEDURAL HISTORY

The Family Court, Queens County, issued an order of protection directing Harvinder Singh to stay away from Jaswinder Kaur Saini through October 16, 2016, based on findings that he committed attempted assault in the third degree, harassment in the second degree, and menacing in the third degree. Singh appealed, challenging the findings and the adequacy of his counsel's representation. The Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- Matter of Monos v. Monos, 123 A.D.3d 931
- Matter of Alfred C., 237 A.D.2d 517, 517
- Matter of Melissa K. v. Brian K., 72 A.D.3d 1129, 1133

OPINION

PER CURIAM.

Matter of Saini v Singh (2015 NY Slip Op 07280) Matter of Saini v Singh 2015 NY Slip Op 07280 Decided on October 7, 2015 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 October 7, 2015 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department MARK C. DILLON, J.P.

CHERYL E. CHAMBERS L. PRISCILLA HALL SYLVIA O. HINDS-RADIX, JJ. 2014-10977 (Docket No. O-21547-13) [*1]In the Matter of Jaswinder Kaur Saini, respondent, v Harvinder Singh, appellant. The Virdone Law Firm, P.C., Westbury, N.Y. (John Virdone of counsel), for appellant. Richard L. Herzfeld, New York, N.Y., for respondent. DECISION & ORDER Appeal from an order of protection of the Family Court, Queens County (Ronald E. Richter, J.), dated October 17, 2014.

The order of protection, inter alia, directed the appellant to stay away from the petitioner until and including October 16, 2016, based upon findings, after a hearing, that the appellant committed the family offenses of attempted assault in the third degree, harassment in the second degree, and menacing in the third degree. ORDERED that the order of protection is affirmed, without costs or disbursements.

The appellant's guilt of the family offenses of attempted assault in the third degree, harassment in the second degree, and menacing in the third degree was established by a fair preponderance of the credible evidence (see Matter of Monos v Monos, 123 AD3d 931). Further, it appears from the record that the appellant was afforded "meaningful representation" of counsel (Matter of Alfred C., 237 AD2d 517, 517; see Matter of Melissa K. v Brian K., 72 AD3d 1129, 1133).

The appellant's remaining contentions are without merit. Accordingly, the Family Court properly issued an order of protection against the appellant. DILLON, J.P., CHAMBERS, HALL and HINDS-RADIX, JJ., concur. ENTER: Aprilanne Agostino Clerk of the Court