

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

Matter of M.M. v. R.G.

2026 NY Slip Op 00197 · No. Index No. O-00500/23, V-00877/23; Appeal No. 5595; Case No. 2024-03499 ·  
Decided January 15, 2026

SUMMARY

The Appellate Division, First Department unanimously affirmed a Family Court order finding that the respondent father committed harassment in the second degree against his child and imposing a nine-month order of protection. The court held that the petitioner established the offense by a preponderance of the evidence, rejected the father's legitimate-purpose argument, and deferred to Family Court's credibility findings.

CASE DETAILS

|                       |                                                                                                                                                                                                                                       |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Appellate Division, First Department, Supreme Court of the State of New York                                                                                                                                                          |
| WRITING FOR THE COURT | Kennedy, J.P.; Gesmer, J.; Rodriguez, J.; Pitt-Burke, J.; Chan, J.                                                                                                                                                                    |
| JURISDICTION          | Appellate Division, First Department, New York                                                                                                                                                                                        |
| DECIDED               | January 15, 2026                                                                                                                                                                                                                      |
| DOCKET                | Index No. O-00500/23, V-00877/23; Appeal No. 5595; Case No. 2024-03499                                                                                                                                                                |
| DISPOSITION           | affirmed                                                                                                                                                                                                                              |
| PROCEDURAL POSTURE    | Respondent father appealed from a Family Court order that, following a fact-finding determination that he committed harassment in the second degree against his child, issued a nine-month order of protection in favor of the child. |
| STANDARD OF REVIEW    | Family Court's credibility determinations and factual findings are entitled to great deference and will not be disturbed where the record provides no basis for doing so.                                                             |
| PRECEDENTIAL VALUE    | Published appellate decision                                                                                                                                                                                                          |
| PARTIES               | R.G., respondent father v. M.M., petitioner                                                                                                                                                                                           |

TOPICS

family law procedure

domestic violence

mootness

evidence

appellate procedure

## PRACTICE AREAS

family law

family offenses

appellate procedure

evidence

## QUESTIONS PRESENTED

1. Whether the appeal remained justiciable after the nine-month order of protection expired.
2. Whether petitioner established by a preponderance of the evidence that respondent committed harassment in the second degree as a family offense.
3. Whether Family Court properly credited the mother's testimony and declined to disturb its factual findings.

## HOLDINGS

1. The appeal was not moot because the underlying finding that respondent committed a family offense could impose significant enduring consequences even though the order of protection had expired.
2. Petitioner established by a preponderance of the evidence that respondent committed harassment in the second degree by repeatedly threatening physical violence against the child with the intent to harass, annoy, or alarm him.
3. Family Court's determination that the mother was a credible witness and its related factual findings were entitled to great deference and would not be disturbed because the record provided no basis for doing so.

## KEY QUOTATIONS

*"Although the order of protection has expired by its own terms, given that the order finding that the father committed family offenses still may impose significant enduring consequences upon him, this appeal is not rendered moot"* ([\*1])

*"The mere fact that the father may have had a legitimate purpose in calling the mother — namely, to exercise his parenting time with the child — does not shield him from liability for threats against the child that followed"* ([\*1])

## FACTUAL BACKGROUND

Respondent father made threats of physical violence against his then-six-year-old child while attempting to exercise parenting time. When the child began crying, the father repeated the threat several times. Family Court credited the mother's testimony and found that the father acted with the requisite intent to harass, annoy, or alarm the child.

## PROCEDURAL HISTORY

Family Court, New York County, after a fact-finding hearing, determined that respondent father committed the family offense of harassment in the second degree against his child and entered a nine-month order of protection.

The Appellate Division unanimously affirmed without costs, holding that the appeal was not moot despite expiration of the order because the family-offense finding could have significant enduring consequences.

## DISPOSITION

affirmed

## CASES CITED

- Matter of D.C. v. J.J.G., 236 AD3d 539, 539 (1st Dept 2025)
- Matter of I.E. v. J.I., 233 AD3d 608, 609 (1st Dept 2024)
- People v. Tiffany, 186 Misc 2d 917, 921-922 (Crim Ct, NY County 2001)
- Matter of Judith L.C. v. Lawrence Y., 179 AD3d 616, 616 (1st Dept 2020), lv denied 35 NY3d 911 (2020)

## OPINION

### PER CURIAM.

Matter of M.M. v R.G. ( 2026 NY Slip Op 00197 ) Matter of M.M. v R.G. 2026 NY Slip Op 00197 Decided on January 15, 2026 Appellate Division, First 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 and Entered: January 15, 2026 Before: Kennedy, J.P., Gesmer, Rodriguez, Pitt-Burke, Chan, JJ. Index No. O-00500/23, V-00877/23 |Appeal No. 5595|Case No. 2024-03499| [\*1]In the Matter of M.M., Petitioner-Respondent, v R.G., Respondent-Appellant.

Bruce A. Young, New York, for appellant. Karen Freedman, Lawyers for Children Inc., New York (Shirim Nothenberg of counsel), attorney for the child. Order, Family Court, New York County (Genna D. Teitelbaum, Ref.), entered on or about April 26, 2024, which, after a fact-finding determination that respondent father committed the family offense of harassment in the second degree against his child, granted a nine-month order of protection in favor of the subject child, unanimously affirmed, without costs.

Although the order of protection has expired by its own terms, given that the order finding that the father committed family offenses still may impose significant enduring consequences upon him, this appeal is not rendered moot ( see Matter of D.C. v J.J.G., 236 AD3d 539, 539 [1st Dept 2025]). Petitioner established by a preponderance of the evidence that respondent, her husband, committed the act of harassment in the second degree by making threats of physical violence against their then six-year-old child while having the requisite intent to harass, annoy, or alarm him (Family Court Act § 832; see Matter of I.E. v J.I., 233 AD3d 608, 609 [1st Dept 2024]).

When the child began to cry in response to the father's threats, the father repeated the same threat several more times. The mere fact that the father may have had a legitimate purpose in calling the

mother — namely, to exercise his parenting time with the child — does not shield him from liability for threats against the child that followed ( see *People v Tiffany*, 186 Misc2d 917, 921-922 [Crim Ct, NY County 2001]).

Family Court's determination that the mother was a credible witness is entitled to great deference, and there is no basis to disturb its findings ( see *Matter of Judith L.C. v Lawrence Y.*, 179 AD3d 616, 616 [1st Dept 2020], lv denied 35 NY3d 911 [2020]).

The trial provided the court with ample opportunity to assess the parties' credibility and demeanor, and both parties had an opportunity to testify and subject each other to cross-examination. We have considered the father's remaining arguments and find them unavailing. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: January 15, 2026