

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

Matter of Preston v. Hormadaly

2026 NY Slip Op 00900 · No. 2025-00712; 2025-00731 · Decided February 18, 2026

SUMMARY

The New York Appellate Division, Second Department reviewed related Family Court proceedings concerning parental access, family-offense findings, and civil contempt petitions. The court dismissed the appeal from a nondispositional family-offense order, affirmed the limitation of the father's parental access to supervised access, and affirmed the order of protection.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Second Judicial Department
WRITING FOR THE COURT	Betsy Barros, J.P.; Valerie Brathwaite Nelson, J.; Barry E. Warhit, J.; Elena Goldberg Velazquez, J.
JURISDICTION	New York Supreme Court, Appellate Division, Second Department
DECIDED	February 18, 2026
DOCKET	2025-00712; 2025-00731
DISPOSITION	affirmed
PROCEDURAL POSTURE	The father appealed from a Family Court order that limited his parental access to supervised access, found that he committed second-degree harassment against the mother and child, and dismissed his petitions for expanded parental access and civil contempt. He also appealed from an order of protection issued after the family-offense finding.
STANDARD OF REVIEW	A custody or parental-access determination is reviewed for whether it has a sound and substantial basis in the record. The hearing court's determination whether access should be supervised is reviewed for abuse of discretion and will not be disturbed absent a sound and substantial basis. Family-offense factual findings and credibility determinations are entitled to great weight and will not be disturbed unless clearly unsupported by the record. An appeal as of right does not lie from a nondispositional order in a Family Court Act article 8 proceeding.

PRECEDENTIAL VALUE

published

PARTIES

Yonathan Hormadaly, father v. Lisa Meredith Preston, mother

TOPICS

child custody

visitation

domestic violence

family law procedure

appellate jurisdiction

PRACTICE AREAS

family law

appellate procedure

QUESTIONS PRESENTED

1. Whether the Family Court properly found a change in circumstances and limited the father's parental access to supervised access in the child's best interests.
2. Whether the evidence supported the Family Court's finding that the father committed second-degree harassment against the mother and child.
3. Whether the father could appeal as of right from the nondispositional portion of the Family Court's article 8 order finding that he committed a family offense.
4. Whether the Family Court properly dismissed the father's petitions for expanded parental access and civil contempt for failure to establish a prima facie case.

HOLDINGS

1. No appeal lies as of right from the nondispositional portion of an order in a proceeding under Family Court Act article 8; the appeal from that portion of the December 3, 2024 order was therefore dismissed.
2. The Family Court properly modified the existing parental-access arrangement to require supervised parental access because the record supported a change in circumstances and supervision was in the child's best interests.
3. The Family Court properly found by a fair preponderance of the evidence that the father committed second-degree harassment against the mother and child.

KEY QUOTATIONS

*“In order to modify an existing custody or parental access arrangement, there must be a showing of a change of circumstances such that modification is required to protect the best interests of the child” (*2)*

*“Supervised parental access is appropriately required only where it is established that unsupervised parental access would be detrimental to the child” (*2)*

*“In a family offense proceeding, the petitioner has the burden of establishing the offense by a fair preponderance of the evidence” (*2)*

“Whether a family offense was committed is a factual issue to be resolved by the Family Court, and that court's determination of credibility issues is entitled to great weight on appeal and should not be disturbed

*unless clearly unsupported by the record” (*2)*

FACTUAL BACKGROUND

The parties are the parents of a child born in 2014. A 2017 custody order awarded the mother sole legal and residential custody and granted the father parental access. Following additional contempt, access-modification, and family-offense petitions, the Family Court found a change in circumstances, limited the father's access to supervised access, found that he committed second-degree harassment against the mother and child, and issued an order of protection.

PROCEDURAL HISTORY

The Family Court previously awarded the mother sole legal and residential custody and granted the father parental access in a February 22, 2017 custody order. After the father filed petitions seeking contempt relief and expanded access, and the mother filed family-offense and modification petitions, the Family Court held a hearing and entered orders on December 3 and 4, 2024. The Appellate Division dismissed the appeal as of right from the nondispositional family-offense order, affirmed the December 3 order insofar as reviewed, and affirmed the order of protection.

DISPOSITION

affirmed

CASES CITED

- Matter of Felgueiras v Cabral, 204 AD3d 790, 791
- Matter of Levy v Binette, 211 AD3d 840, 841
- Matter of Masri v Masri, 171 AD3d 1183, 1185
- Matter of Gray v Tyson, 205 AD3d 720, 722
- Matter of Vicente v Diaz, 241 AD3d 1571, 1572
- Matter of Davis v Wright, 140 AD3d 753, 754
- Matter of Cook v Berehowsky, 211 AD3d 727, 728
- Matter of Roman v Deceus, 239 AD3d 751, 752
- Matter of Inez A. v David A., 222 AD3d 547
- Matter of Safir v Safir, 214 AD3d 888, 889
- Matter of Livesey v Gulick, 194 AD3d 1045, 1047

OPINION

PER CURIAM.

Matter of Preston v Hormadaly (2026 NY Slip Op 00900) Matter of Preston v Hormadaly 2026 NY Slip Op 00900 Decided on February 18, 2026 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 February 18, 2026 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department BETSY BARROS, J.P.

VALERIE BRATHWAITE NELSON BARRY E. WARHIT ELENA GOLDBERG VELAZQUEZ, JJ. 2025-00712 2025-00731 (Docket Nos. O-8690-20, O-17434-22, V-9104-15/22H, V-9104-15/22I) [*1]In the Matter of Lisa Meredith Preston, respondent, v Yonathan Hormadaly, appellant. Peter C. Lomtevas, Esq., P.C., Schenectady, NY, for appellant. Law Offices of Steven D. Kommor, P.C., Melville, NY, for respondent.

Larry S. Bachner, New York, NY, attorney for the child. DECISION & ORDER In related proceedings pursuant to Family Court Act articles 6 and 8, the father appeals from (1) an order of the Family Court, Queens County (Tamra Walker, J.), dated December 3, 2024, and (2) an order of protection of the same court dated December 4, 2024.

The order, insofar as appealed from, after a hearing, granted the mother's petition to modify a prior order of the same court (Diane Costanzo, J.) dated February 22, 2017, so as to limit the father's parental access with the subject child to supervised parental access, found that the father committed the family offense of harassment in the second degree against the mother and the child, and, upon granting the mother's motion to dismiss the father's petition to modify the order dated February 22, 2017, so as to expand his parental access with the child and the father's petitions to hold the mother in civil contempt for violating the order dated February 22, 2017, for failure to establish a prima facie case, dismissed the father's petitions.

The order of protection, upon so much of the order dated December 3, 2024, as found that the father committed the family offense of harassment in the second degree against the mother and the child, inter alia, directed the father to refrain from certain conduct with respect to the mother until and including December 4, 2029. ORDERED that the appeal from so much of the order dated December 3, 2024, as found that the father committed the family offense of harassment in the second degree against the mother and the child is dismissed, without costs or disbursements, on the ground that no appeal lies as of right from a nondispositional order in a proceeding pursuant to Family Court Act article 8 (Family Ct Act § 1112); and it is further, ORDERED that the order dated December 3, 2024, is affirmed insofar as reviewed, without costs or disbursements; and it is further, ORDERED that the order of protection is affirmed, without costs or disbursements.

The parties are the parents of one child, born in 2014. In an order dated February 22, 2017 (hereinafter the custody order), the Family Court awarded the mother sole legal and residential [*2]custody of the child and granted the father certain parental access.

In October 2019, the father filed petitions to hold the mother in civil contempt for violating the custody order, and to modify the custody order so as to expand his parental access with the child.

In February 2020, the father filed another petition to hold the mother in civil contempt for further violations of the custody order.

In November 2020, the mother filed a petition alleging that the father had committed various family offenses against her and the child, including harassment in the second degree. Thereafter, in August 2021, the mother moved, inter alia, to modify the custody order so as to limit the father's parental access with the child to supervised parental access.

In November 2022, the mother filed a petition alleging that the father had committed various family offenses against the child. In an order dated December 3, 2024, after a hearing, the Family Court, among other things, granted the mother's petition to modify the custody order so as to limit the father's parental access with the child to supervised parental access, found that the father committed the family offense of harassment in the second degree against the mother and the child, and, upon granting the mother's motion to dismiss the father's petitions to hold the mother in civil contempt for violating the custody order and to modify the custody order so as to expand his parental access for failure to establish a prima facie case, dismissed the father's petitions.

On December 4, 2024, the court issued an order of protection, inter alia, directing the father to refrain from certain conduct with respect to the mother until and including December 4, 2029. The father appeals. "In order to modify an existing custody or parental access arrangement, there must be a showing of a change of circumstances such that modification is required to protect the best interests of the child" (*Matter of Felgueiras v Cabral*, 204 AD3d 790, 791; see *Matter of Levy v Binette*, 211 AD3d 840, 841).

"Supervised parental access is appropriately required only where it is established that unsupervised parental access would be detrimental to the child" (*Matter of Masri v Masri*, 171 AD3d 1183, 1185; see *Matter of Gray v Tyson*, 205 AD3d 720, 722). "The determination of whether parental access should be supervised is a matter within the sound discretion of the hearing court, and its findings will not be disturbed on appeal unless they lack a sound and substantial basis in the record" (*Matter of Masri v Masri*, 171 AD3d at 1185; see *Matter of Gray v Tyson*, 205 AD3d at 722).

Here, contrary to the father's contention, the Family Court's determination that there had been a change in circumstances since the custody order and that it was in the best interests of the child to limit the father's parental access to supervised parental access is supported by a sound and substantial basis in the record and, thus, will not be disturbed (see *Matter of Vicente v Diaz*, 241 AD3d 1571, 1572; *Matter of Gray v Tyson*, 205 AD3d at 722).

"In a family offense proceeding, the petitioner has the burden of establishing the offense by a fair preponderance of the evidence" (*Matter of Davis v Wright*, 140 AD3d 753, 754; see *Matter of Cook v Berehowsky*, 211 AD3d 727, 728). "Whether a family offense was committed is a factual

issue to be resolved by the Family Court, and that court's determination of credibility issues is entitled to great weight on appeal and should not be disturbed unless clearly unsupported by the record" (Matter of Davis v Wright, 140 AD3d at 754).

Here, a fair preponderance of the evidence adduced at the hearing established that the father committed the family offense of harassment in the second degree against the mother and the child (see Matter of Roman v Deceus, 239 AD3d 751, 752; Matter of Inez A. v David A., 222 AD3d 547).

The Family Court's finding that the father committed the family offense of harassment in the second degree was based upon its credibility assessments and is supported by the record (see Matter of Safir v Safir, 214 AD3d 888, 889; Matter of Livesey v Gulick, 194 AD3d 1045, 1047). Further, the father's intent to commit harassment in the second degree is properly inferred from his conduct and the surrounding circumstances (see Matter of Safir v Safir, 214 AD3d at 889).

The father's remaining contentions are without merit. BARROS, J.P., BRATHWAITE NELSON, WARHIT and GOLDBERG VELAZQUEZ, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court