

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

Matter of Frederick Little v. Sandye Renz

137 A.D.3d 916 (N.Y. App. Div. 2d Dep't 2016) · No. 2015-00150 · Decided March 9, 2016

OPINION

PER CURIAM.

Matter of Little v Renz (2016 NY Slip Op 01676) Matter of Little v Renz 2016 NY Slip Op 01676 Decided on March 9, 2016 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 March 9, 2016 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department WILLIAM F. MASTRO, J.P.

CHERYL E. CHAMBERS SHERI S. ROMAN BETSY BARROS, JJ. 2015-00150 (Docket No. O-36543-10) [*1]In the Matter of Frederick Little, appellant, vSandye Renz, respondent. Michael D. Carlin, Brooklyn, NY, for appellant. Karen P. Simmons, Brooklyn, NY (Susan M. Cordaro and Janet Neustaetter of counsel), attorney for the child. DECISION & ORDER Appeal from an order of the Family Court, Kings County (Michael L. Katz, J.), dated December 17, 2014.

The order, after a hearing, dismissed the father's family offense petition against the mother. ORDERED that the order is affirmed, without costs or disbursements. The father commenced this family offense proceeding pursuant to Family Court Act article 8 against the mother of the parties' child, alleging that she committed the family offenses of, inter alia, harassment in the second degree and disorderly conduct.

At a fact-finding hearing, at the close of the father's case, the Family Court granted the motion of the attorney for the child to dismiss so much of the petition as alleged that the mother committed the family offense of disorderly conduct for failure to make a prima facie case. At the close of the fact-finding hearing, the court found that the father failed to establish by a preponderance of the evidence that the mother committed any family offense, based on the incidents alleged in the petition, and accordingly, dismissed the petition.

The Family Court did not err by refusing to consider evidence concerning incidents between the parties which were not alleged in the father's petition (see *Matter of Salazar v Melendez*, 97 AD3d 754, 755). We agree with the Family Court that the father failed to establish a prima facie case with respect to the family offense of disorderly conduct (see Penal Law § 240.20; Family Ct Act § 812[1]).

Specifically, he failed to present evidence to support a finding that the mother's conduct was committed with the intent to cause, or recklessly posed a risk of causing, public inconvenience, annoyance or alarm (see *Matter of Cassie v Cassie*, 109 AD3d 337, 344).

Moreover, the Family Court's finding that the father did not establish that the mother committed any of the other family offenses alleged in the petition was based on credibility determinations that are supported by the record (see *Matter of Giresi-Palazzolo v Palazzolo*, 127 AD3d 752).

The father's remaining contention is without merit. MASTRO, J.P., CHAMBERS, ROMAN and BARROS, JJ., concur. ENTER: Aprilanne Agostino Clerk of the Court