

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

Matter of Kaye v. Triantis

2026 NY Slip Op 01513 · No. 2025-00514 · Decided March 18, 2026

SUMMARY

The Appellate Division, Second Department affirmed an order denying family offense and violation petitions brought by Lana Kaye against Harry Triantis. The court upheld the Family Court's finding that the petitioner failed to establish harassment in the second degree, deferring to its credibility determinations. The court also concluded that the petitioner failed to establish that the respondent willfully violated the temporary order of protection.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                              |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of New York, Appellate Division, Second Judicial Department                                                                                                                                                                                                                                                                                                       |
| WRITING FOR THE COURT | Hector D. LaSalle, P.J.; Cheryl E. Chambers, J.; Paul Wooten, J.; Helen Voutsinas, J.                                                                                                                                                                                                                                                                                                        |
| JURISDICTION          | Supreme Court of the State of New York, Appellate Division, Second Judicial Department                                                                                                                                                                                                                                                                                                       |
| DECIDED               | March 18, 2026                                                                                                                                                                                                                                                                                                                                                                               |
| DOCKET                | 2025-00514                                                                                                                                                                                                                                                                                                                                                                                   |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                     |
| PROCEDURAL POSTURE    | Petitioner appealed from an order of the Family Court, Nassau County, entered after a hearing, that denied family-offense and violation petitions and effectively dismissed the proceedings.                                                                                                                                                                                                 |
| STANDARD OF REVIEW    | Family Court factual determinations and credibility assessments in family-offense proceedings are entitled to great weight and will not be disturbed unless clearly unsupported by the record. The Appellate Division may independently review the evidence when the record is sufficient, even if the Family Court failed to state the basis for its determination on a violation petition. |
| PRECEDENTIAL VALUE    | Published New York Appellate Division decision                                                                                                                                                                                                                                                                                                                                               |
| PARTIES               | Lana Kaye v. Harry Triantis                                                                                                                                                                                                                                                                                                                                                                  |

## TOPICS

family law procedure   domestic violence   appellate procedure   standard of review   burden of proof

## PRACTICE AREAS

family law   family offense proceedings   orders of protection   appellate review

## QUESTIONS PRESENTED

1. Whether the Family Court's determination that the petitioner failed to establish second-degree harassment was supported by the record.
2. Whether the Appellate Division could review the violation petition independently despite the Family Court's failure to state the basis for denying it.
3. Whether denial of the family-offense petition required denial of the separate petition alleging violation of the temporary order of protection.
4. Whether the petitioner established that the respondent willfully violated the temporary order of protection.

## HOLDINGS

1. The Family Court properly determined that the petitioner failed to establish that the respondent committed the family offense of harassment in the second degree, and its credibility-based determination was supported by the record.
2. Remittal was unnecessary because the record was sufficient for the Appellate Division to conduct an independent review of the evidence despite the Family Court's failure to state on the record the basis for denying the violation petition.
3. The Family Court was not required to deny the violation petition merely because it denied the family-offense petition.
4. The petitioner failed to establish that the respondent willfully violated the temporary order of protection, so denial of the violation petition and dismissal of that proceeding were proper.

## KEY QUOTATIONS

*“In a family offense proceeding, the petitioner has the burden of establishing, by a fair preponderance of the evidence, that the charged conduct was committed as alleged in the petition” (at 2)*

*“The determination of whether a family offense was committed is a factual issue to be resolved by the Family Court, and its determinations regarding the credibility of witnesses are entitled to great weight on appeal, such that they will not be disturbed unless clearly unsupported by the record” (at 2)*

*“While there is no question that an isolated incident cannot support a finding of harassment, a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose can support such a finding” (at 2)*

## FACTUAL BACKGROUND

Kaye alleged that her former husband, Triantis, committed multiple family offenses and later violated a temporary order of protection issued on June 21, 2024. The temporary order directed Triantis to refrain from committing specified crimes, including assault, stalking, harassment, aggravated harassment, and menacing. After a hearing on the pending petitions, the Family Court found that Kaye had not established second-degree harassment and had not established that Triantis willfully violated the temporary order.

## PROCEDURAL HISTORY

Lana Kaye commenced a family-offense proceeding against her former husband in April 2022. The Family Court initially dismissed the petition for failure to state a cause of action, but the Appellate Division reversed and remitted for further proceedings after finding that the allegations sufficiently pleaded second-degree harassment. Following remittitur, the Family Court issued a temporary order of protection, conducted a hearing on the pending petitions, and denied them. The Appellate Division affirmed, concluding that the family-offense determination was supported by the record and that the petitioner failed to prove a willful violation of the temporary order.

## DISPOSITION

affirmed

## CASES CITED

- Matter of Kaye v. Triantis, 225 AD3d 763, 763-764
- Matter of Sealy v. Peart, 215 AD3d 971, 972
- Matter of Martinez v. Toole, 239 AD3d 855, 857-858
- Matter of Julien v. Lewin, 238 AD3d 757, 758-759
- Matter of Warren v. Brandofino, 236 AD3d 917, 918
- Matter of Mitchell-George v. George, 234 AD3d 969, 969
- Matter of Schade v. Kupferman, 188 AD3d 1218, 1219
- Matter of Pope v. Pope, 243 AD3d 914, 916
- Matter of Porter v. Moore, 149 AD3d 1082, 1083-1084
- Matter of Milworm v. Milworm, 132 AD3d 677, 677
- Matter of Lisa T. v. King E.T., 30 NY3d 548, 551-553
- Matter of Santiago v. Santiago, 158 AD3d 772, 773

## OPINION

PER CURIAM.

Matter of Kaye v Triantis ( 2026 NY Slip Op 01513 ) Matter of Kaye v Triantis 2026 NY Slip Op 01513 Decided on March 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 March 18, 2026 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department HECTOR D. LASALLE, P.J. CHERYL E. CHAMBERS PAUL WOOTEN HELEN VOUTSINAS, JJ. 2025-00514 (Docket Nos. O-3094/22, O-3094-22/24A, O-3094-22/22B) [\*1]In the Matter of Lana Kaye, appellant, v Harry Triantis, respondent.

Jan Murphy, Huntington, NY, for appellant. DECISION & ORDER In related proceedings pursuant to Family Court Act article 8, the petitioner appeals from an order of the Family Court, Nassau County (Sylvia A. Cabana, J.), dated November 18, 2024.

The order, after a hearing, denied the petitions and, in effect, dismissed the proceedings. ORDERED that the order is affirmed, without costs or disbursements. In April 2022, the petitioner commenced a family offense proceeding against her former husband (hereinafter the respondent), alleging that the respondent had committed multiple family offenses against her.

The Family Court issued a temporary order of protection. In an order dated October 7, 2022, the Family Court, in effect, granted the respondent's application to dismiss the petition for failure to state a cause of action, and dismissed the petition.

In a decision and order dated March 20, 2024, this Court reversed the order on the ground that "liberally construing the allegations of the petition and granting the petitioner the benefit of every possible favorable inference, the petition alleged conduct that constituted an enumerated family offense, namely harassment in the second degree" ( Matter of Kaye v Triantis, 225 AD3d 763, 764; see Penal Law § 240.26[3]).

The matter was remitted to the Family Court, Nassau County, for further proceedings on the family offense petition ( Matter of Kaye v Triantis, 225 AD3d at 763). Upon remittur, the petitioner moved to reinstate the temporary order of protection.

The Family Court granted the motion and issued a temporary order of protection dated June 21, 2024, directing the respondent, inter alia, to refrain from committing the crimes of assault, stalking, harassment, aggravated harassment, or menacing against the petitioner.

In October 2024, the petitioner filed, among other things, a petition seeking an order of protection directing the respondent to stay away from her, alleging that the respondent had violated the provisions of the temporary order of protection.

The Family Court conducted a hearing on all pending petitions and, by order dated November 18, 2024, denied the petitions and, in effect, dismissed the proceedings. The petitioner appeals. "In a family offense proceeding, the petitioner has the burden of establishing, by a fair preponderance of the evidence, that the charged conduct was committed as alleged in the petition" ( Matter of Sealy

v Peart, 215 AD3d 971, 972; see *Matter of Martinez v Toole*, 239 AD3d 855, 857; [\*2]*Matter of Julien v Lewin*, 238 AD3d 757, 758).

"The determination of whether a family offense was committed is a factual issue to be resolved by the Family Court, and its determinations regarding the credibility of witnesses are entitled to great weight on appeal, such that they will not be disturbed unless clearly unsupported by the record" ( *Matter of Warren v Brandofino*, 236 AD3d 917, 918 [internal quotation marks omitted]; see *Matter of Mitchell-George v George*, 234 AD3d 969, 969).

"A person commits harassment in the second degree when with the intent to harass, annoy, or alarm another, he or she 'engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose'" ( *Matter of Julien v Lewin*, 238 AD3d at 758, quoting Penal Law § 240.26[3]; see *Matter of Martinez v Toole*, 239 AD3d at 857; *Matter of Schade v Kupferman*, 188 AD3d 1218, 1219 ).

"While there is no question that an isolated incident cannot support a finding of harassment, a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose can support such a finding" ( *Matter of Schade v Kupferman*, 188 AD3d at 1219 [internal quotation marks omitted]; see *Matter of Martinez v Toole*, 239 AD3d at 857).

Here, the Family Court's determination that the petitioner had not established that the respondent committed the family offense of harassment in the second degree was based on the court's credibility assessment of the witnesses and is supported by the record ( see *Matter of Pope v Pope*, 243 AD3d 914, 916; *Matter of Martinez v Toole*, 239 AD3d at 858; *Matter of Julien v Lewin*, 238 AD3d at 758-759).

Accordingly, there is no basis to disturb the court's determination to deny the family offense petition and, in effect, dismiss the family offense proceeding. Although the Family Court failed to state on the record the basis for its determination to deny the violation petition, remittal is unnecessary "because the record is sufficient for this Court to conduct an independent review of the evidence" ( *Matter of Porter v Moore*, 149 AD3d 1082, 1083-1084; see *Matter of Milworm v Milworm*, 132 AD3d 677, 677; cf. *Matter of Sealy v Peart*, 215 AD3d at 972).

At the outset, contrary to the respondent's contention at the hearing on the violation petition, the court was not required to deny the violation petition based on the denial of the family offense petition ( see *Matter of Lisa T. v King E.T.*, 30 NY3d 548, 551-553; *Matter of Santiago v Santiago*, 158 AD3d 772, 773).

However, the petitioner failed to establish that the respondent wilfully violated the temporary order of protection dated June 21, 2024 ( see *Matter of Pope v Pope*, 243 AD3d at 916; *Matter of Santiago v Santiago*, 158 AD3d at 773).

Accordingly, the court properly denied the violation petition and, in effect, dismissed that proceeding. The petitioner's remaining contention's are without merit. LASALLE, P.J., CHAMBERS, WOOTEN and VOUTSINAS, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court

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