

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

Matter of Morrissey v. Morrissey

Morrissey, 2026 NY Slip Op 02984 (Supreme Court of the State of New York Appellate Division Second
Judicial Department 2026) · No. 2025-02629 · Decided May 13, 2026

SUMMARY

The Appellate Division, Second Department dismissed Martha Morrissey's appeal from a Family Court order finding, after an inquest and her default, that she committed harassment in the second degree. The court held that the alleged failure to adjourn the fact-finding hearing was not a matter contested before the Family Court and therefore was not reviewable on a default appeal.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Francesca E. Connolly, J.P.; Linda Christopher, J.; Lourdes M. Ventura, J.; Donna-Marie E. Golia, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	May 13, 2026
DOCKET	2025-02629
DISPOSITION	dismissed
PROCEDURAL POSTURE	Martha Morrissey appealed from a Family Court, Queens County, order of fact-finding and disposition entered after an inquest and upon her default in a Family Court Act article 8 family offense proceeding.
STANDARD OF REVIEW	An appeal does not lie from an order entered upon the appealing party's default; review is limited to matters that were the subject of contest before the Family Court.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	Martha Morrissey v. Michael Morrissey

TOPICS

- family law procedure
- default
- appellate procedure
- preservation of error
- domestic violence

PRACTICE AREAS

family law

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether the Appellate Division could review an order of fact-finding and disposition entered upon the appellant's default.
2. Whether the Family Court's failure to adjourn the fact-finding hearing was reviewable when the appellant did not contest that issue before the Family Court.

HOLDINGS

1. No appeal lies from an order made upon the default of the appealing party, and review is limited to matters that were the subject of contest before the Family Court.
2. The failure to adjourn the fact-finding hearing was not reviewable because it was not a subject of contest before the Family Court.

KEY QUOTATIONS

“No appeal lies from an order made upon the default of the appealing party” ([*1])

“Since the order of fact-finding and disposition was entered upon the appellant's default, review is limited to matters which were the subject of contest before the Family Court” ([*1])

FACTUAL BACKGROUND

Michael Morrissey commenced a Family Court Act article 8 proceeding seeking an order of protection against Martha Morrissey. After the Family Court scheduled a fact-finding hearing, Morrissey failed to appear on the hearing date. Her attorney declined to participate in the inquest, did not request an adjournment, and did not object to proceeding; the Family Court thereafter found that she committed harassment in the second degree.

PROCEDURAL HISTORY

Michael Morrissey commenced a Family Court Act article 8 proceeding for an order of protection in May 2024. The Family Court scheduled a fact-finding hearing for February 10, 2025; Martha Morrissey failed to appear, her attorney declined to participate and did not request an adjournment or object to the inquest, and the court found that she committed harassment in the second degree. The Appellate Division dismissed her appeal because the order was entered upon her default and the asserted failure to adjourn was not contested below.

DISPOSITION

dismissed

CASES CITED

- Matter of Kaileigh-Kouture A.M. [Jessica-Maria M.], 240 AD3d 694, 695

- Matter of Aurora B. [Eric H.], 212 AD3d 806, 808

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