

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D12925
Y/cb

_____AD3d_____

Argued - October 3, 2006

ROBERT W. SCHMIDT, J.P.
THOMAS A. ADAMS
PETER B. SKELOS
JOSEPH COVELLO, JJ.

2005-10311

DECISION & ORDER

Erik Faltings, respondent, v Mary Faltings,
appellant.

(Index No. 254/03)

Jeffrey S. Schecter & Associates, P.C., Garden City, N.Y. (Bryce Levine of counsel),
for appellant.

Reynolds, Caronia, Gianelli, Hagney, LaPinta & Hargraves, LLP, Hauppauge, N.Y.
(James F. Hagney of counsel), for respondent.

In a matrimonial action in which the parties were divorced by judgment entered October 25, 2004, upon the defendant's default in appearing or answering, the defendant appeals from an order of the Supreme Court, Suffolk County (Blydenburgh, J.), dated November 4, 2005, which, inter alia, denied her motion to vacate the judgment.

ORDERED that the order is affirmed, with costs.

Although this court has adopted a liberal policy with respect to vacating defaults in matrimonial actions, it is still within the Supreme Court's discretion whether to vacate a default (*see Passas v Passas*, 18 AD3d 842; *Viner v Viner*, 291 AD2d 398; *Black v Black*, 141 AD2d 689). Here, the defendant failed to establish a reasonable excuse for her default and a meritorious defense to the action (*see CPLR 5015; Lutz v Goldstone*, 31 AD3d 449; *Dinstber v Fludd*, 2 AD3d 670). Accordingly, the court providently exercised its discretion in denying the wife's motion to vacate the

judgment entered upon her default for failing to answer or appear (*see Passas v Passas, supra; Viner v Viner, supra; Black v Black, supra*).

SCHMIDT, J.P., ADAMS, SKELOS and COVELLO, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court