

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

D17619
Y/prt

_____AD3d_____

Submitted - December 20, 2007

STEVEN P. FISHER, J.P.
ROBERT A. LIFSON
JOSEPH COVELLO
WILLIAM E. McCARTHY, JJ.

2007-01220

DECISION & ORDER

In the Matter of Maria L. Guevara, appellant,
v Gina Ubillus, respondent.

(Docket No. F-6892-05)

Steven Banks, New York, N.Y. (Tamara Steckler and John A. Newberry of counsel),
for appellant.

Sean Sabeti, Jericho, N.Y. for respondent.

In a child support proceeding pursuant to Family Court Act article 4, the petitioner appeals from an order of the Family Court, Nassau County (Pessala, J.), dated December 8, 2004, which denied her objections to an order of the same court (Cahn, S.M.), dated August 24, 2006, which, after a hearing, denied her petition for child support.

ORDERED that the order is affirmed, without costs or disbursements.

It is fundamental public policy in New York that parents of minor children are responsible for their children's support until age 21 (*see* Family Ct Act § 413; *Matter of Roe v Doe*, 29 NY2d 188, 192-193; *Matter of Cellamare v Lakeman*, 36 AD3d 906). "Nevertheless, children of employable age and in full possession of their faculties who voluntarily and without cause abandon their home, against the will of their parents and for the purpose of avoiding parental control, forfeit their right to demand support even if they are not financially self-sufficient" (*Matter of Bailey v Bailey*, 15 AD3d 577; *see Matter of Roe v Doe*, 29 NY2d 188, 192-193; *Matter of Alice C. v Bernard G.C.*, 193 AD2d 97, 105).

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The evidence on the record sufficiently supports the finding that the petitioner, without good cause, abandoned the respondent's home on her eighteenth birthday in order to avoid parental control and to gain independence from her mother's restrictive household rules (*see Matter of Roe v Doe*, 29 NY2d 188; *Matter of Bailey v Bailey*, 15 AD3d 577; *Commr. of Social Servs. ex rel Jones v Jones-Gamble*, 227 AD2d 618; *cf. Matter of Drago v Drago*, 138 AD2d 704, 706). Accordingly, there is no basis to disturb the findings of the Support Magistrate, who was in the best position to assess the credibility of the witnesses and the evidence offered, or the Family Court's ultimate conclusion that the petitioner abandoned the mother's home against the mother's will and without cause (*see Matter of Bailey v Bailey*, 15 AD3d 577).

FISHER, J.P., LIFSON, COVELLO and McCARTHY, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court