

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

D18100  
Y/kmg

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Submitted - January 11, 2008

WILLIAM F. MASTRO, J.P.  
PETER B. SKELOS  
ANITA R. FLORIO  
THOMAS A. DICKERSON, JJ.

2007-05468

DECISION & ORDER

In the Matter of Cindy Catalano, appellant,  
v David Catalano, Jr., respondent.

(Docket No. F-00291-98)

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Cindy Catalano, Pequannock, N.J., appellant pro se.

In a child support proceeding pursuant to Family Court Act article 4, the petitioner appeals from so much of an order of the Family Court, Rockland County (Christopher, J.), dated April 30, 2007, as denied her objections to stated portions of an order of the same court (Kaufman, S.M.) dated November 20, 2006, which, after a hearing, inter alia, denied that branch of her petition which was for reimbursement of certain college expenses.

ORDERED that the order dated April 30, 2007, is modified, on the law and in the exercise of discretion, by deleting the provision thereof denying the petitioner's objection to so much of the order dated November 20, 2006, as denied that branch of her petition which was for reimbursement in the sum of \$3,000 for college expenses pertaining to the 2003/04 school year and substituting therefor a provision sustaining the objection; as so modified, the order dated April 30, 2007, is affirmed insofar as appealed from, with costs to the petitioner, the order dated November 20, 2006, is modified accordingly, and the matter is remitted to the Family Court, Rockland County, for a hearing and a new determination of that branch of the petition pertaining to the respondent's alleged failure to reimburse the petitioner the sum of \$3,000 for college expenses pertaining to the 2003/04 school year.

By order of the Family Court, Rockland County (Miklitsch, H.E.), dated October 4, 2000, the respondent was directed to contribute the sum of \$3,000 per year to the cost of the college

March 4, 2008

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education of the parties' daughter, "so long as she is in college." Although the respondent stipulated at a hearing that the daughter graduated in May 2004, the petitioner effectively was denied the opportunity to proffer evidence that the daughter was enrolled in and attended college during the 2003/04 school year (*cf. Matter of Carmen V. v Bruce R.*, 87 AD2d 595, 596). The Support Magistrate then denied that branch of the petition which sought reimbursement of the college expenses pertaining to that period upon concluding that the petitioner failed to submit evidence of the daughter's enrollment and attendance during the relevant time period. Since, however, the Support Magistrate effectively precluded the petitioner from proffering the appropriate evidence, we remit the matter to the Family Court, Rockland County, for a hearing, with the benefit of the submission of such evidence, on that branch of the petition.

The petitioner's remaining contentions are without merit.

MASTRO, J.P., SKELOS, FLORIO and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court