

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

D19194
C/kmg

_____AD3d_____

Submitted - April 10, 2008

REINALDO E. RIVERA, J.P.
FRED T. SANTUCCI
RANDALL T. ENG
CHERYL E. CHAMBERS, JJ.

2007-08885
2007-11086

DECISION & ORDER

In the Matter of Amy Rube, respondent,
v Yehuda Tornheim, appellant.

(Docket No. F-06352-99/00B)

Ernest H. Hammer, New York, N.Y., for appellant.

Amy Rube, Brooklyn, N.Y., respondent pro se.

In a child support proceeding pursuant to Family Court Act article 4, the father appeals from (1) an order of the Family Court, Kings County (Sacco, J.), dated August 10, 2007, which denied his objections to an order of the same court (Fasone, S.M.) dated May 10, 2007, which, after a hearing, denied his motion to vacate arrears in his Support Collection Unit account in the sum of \$22,880, and (2) a resettled order of the same court (Sacco, J.) dated October 22, 2007, which, in effect, denied his objections to the order dated May 10, 2007, and amended the order dated August 10, 2007, to correct a factual error.

ORDERED that the appeal from the order dated August 10, 2007, is dismissed, without costs or disbursements, as that order was superseded by the resettled order dated October 22, 2007; and it is further,

ORDERED that the resettled order dated October 22, 2007, is affirmed, without costs or disbursements.

The Family Court properly denied the father's objections to the Support Magistrate's

May 13, 2008

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order. In reviewing a determination of the Family Court, great deference should be given to the credibility determinations of the Support Magistrate (*see Matter of Fragola v Alfaro*, 45 AD3d 684, 685; *Matter of Moran v Grillo*, 44 AD3d 859, 860; *Matter of Musarra v Musarra*, 28 AD3d 668, 669). Here, the Support Magistrate's finding that the father did not establish his entitlement to vacatur of arrears in his Support Collection Unit account in the sum of \$22,880 was based upon an assessment of his credibility, and is supported by the record (*see Matter of Strella v Ferro*, 42 AD3d 544, 545; *Matter of Cordero v Olivera*, 40 AD3d 852, 853).

The father's remaining contentions are without merit.

RIVERA, J.P., SANTUCCI, ENG and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court