

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

D20228
O/hu

_____AD3d_____

Submitted - June 24, 2008

PETER B. SKELOS, J.P.
DAVID S. RITTER
ANITA R. FLORIO
EDWARD D. CARNI, JJ.

2007-06284

DECISION & ORDER

In the Matter of Donna M. Luisi, respondent,
v Gary C. Luisi, appellant.

(Docket No. F-425-00)

Gary C. Luisi, Port Saint Lucie, Florida, appellant pro se.

Donna M. Luisi-Prose, named herein as Donna M. Luisi, Mastic, N.Y., respondent
pro se.

In a support proceeding pursuant to Family Court Act article 4, the father appeals from an order of the Family Court, Suffolk County (Luft, J.), dated June 5, 2007, which denied his objections to an order of the same court (Buetow, S.M.) dated April 2, 2007, dismissing his petition for a modification of his child support obligation.

ORDERED that the order dated June 5, 2007, is affirmed, without costs or disbursements.

An order of support was entered on default on February 2, 2001, directing the father to pay child and spousal support. After the order of support was entered, the father requested on numerous occasions that the amount of arrears that he owed the Suffolk County Department of Social Services be offset by alleged voluntary child support payments that he paid directly to the mother.

Having previously and fully litigated the subject of the arrears before the Family Court, the father improperly sought to relitigate that issue in his petition for a modification of his child

September 16, 2008

Page 1.

MATTER OF LUISI v LUISI

support obligation (*see* Family Ct Act § 439[e]; *Solis v Marmolejos*, 50 AD3d 691; *Matter of Phelps v La Point*, 284 AD2d 605, 610). Accordingly, the Family Court properly denied the father's objections to the order dismissing his petition.

The parties' remaining contentions are without merit.

SKELOS, J.P., RITTER, FLORIO and CARNI, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court