

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

D20739  
G/kmg

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - September 22, 2008

PETER B. SKELOS, J.P.  
STEVEN W. FISHER  
THOMAS A. DICKERSON  
ARIEL E. BELEN, JJ.

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2007-11654

DECISION & ORDER

In the Matter of Alice Territo, respondent,  
v Richard Keane, appellant.

(Docket No. 0-16547-06)

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Steven Flaumenhaft, West Sayville, N.Y., for appellant.

In a family offense proceeding pursuant to Family Court Act article 8, the husband appeals from an order of the Family Court, Suffolk County (Simeone, J.), dated November 14, 2007, which denied his motion pursuant to CPLR 5015(a)(1) to vacate an order of protection of the same court dated January 31, 2007, entered upon his default in appearing for a hearing.

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

The Family Court properly denied the husband's motion pursuant to CPLR 5015(a)(1) to vacate an order of protection entered upon his default in appearing for a hearing on the wife's family offense petition. The husband demonstrated neither a reasonable excuse for his default nor a meritorious defense to the petition (*see* CPLR 5015[a][1]; *Atwater v Mace*, 39 AD3d 573; *Matter of Thomas v Coombs*, 290 AD2d 512; *Matter of Ashley Marie M.*, 287 AD2d 333; *Matter of Nathalie A.*, 145 AD2d 629, 630; *see also Durr v New York Community Hosp.*, 43 AD3d 388; *Matter of Joosten v Joosten*, 32 AD3d 1030).

The husband's remaining contention is not properly before this Court.

SKELOS, J.P., FISHER, DICKERSON and BELEN, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

October 14, 2008

MATTER OF TERRITO v KEANE