

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

D25859
Y/prt

_____AD3d_____

Submitted - December 21, 2009

PETER B. SKELOS, J.P.
RUTH C. BALKIN
JOHN M. LEVENTHAL
PLUMMER E. LOTT, JJ.

2008-11063

DECISION & ORDER

In the Matter of Lucero Sanabria, appellant,
v Gabriel Medina, respondent.

(Docket No. V-15268-05)

Lucero Sanabria, Miami, Florida, appellant pro se.

Steven Greenfield, New York, N.Y., for respondent.

In a proceeding pursuant Family Court Act article 4, the mother appeals, as limited by her brief, from so much of an order of the Family Court, Queens County (Salinitro, J.), dated November 7, 2008, as denied her objections to an order of the same court (Gartner, S.M.), dated April 9, 2008, denying, after oral argument, her motion to vacate a money judgment dated January 23, 2002, entered upon her default in appearing, with leave to refile the motion under the correct docket number, and denied, as untimely, her objections to an order of the same court (Gartner, S.M.), dated July 11, 2008, which, after a hearing, modified a prior order of child support.

ORDERED that the order dated November 7, 2008, is affirmed insofar as appealed from, without costs or disbursements.

The Family Court properly denied the mother's objections to the Support Magistrate's order dated April 9, 2008, denying the mother's motion to vacate a money judgment dated January 23, 2002, entered upon her default in appearing, since the motion was not properly docketed (*see* 22 NYCRR 205.7[d]). The Family Court properly gave the mother leave to re-file the motion to vacate the judgment under the correct docket number (*see* 22 NYCRR 205.7[b]).

January 26, 2010

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MATTER OF SANABRIA v MEDINA

The Family Court properly denied, as untimely, the mother's objections to the Support Magistrate's order dated July 11, 2008, because the objections were not filed within 35 days of the court's mailing of that order (*see Matter of Hodges v Hodges*, 40 AD3d 639; *Matter of Herman v Herman*, 11 AD3d 536; Family Ct Act § 439[e]).

SKELOS, J.P., BALKIN, LEVENTHAL and LOTT, 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