

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

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_____AD3d_____

Submitted - March 29, 2010

JOSEPH COVELLO, J.P.
FRED T. SANTUCCI
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON, JJ.

2009-03807

DECISION & ORDER

In the Matter of Nina Dakin, respondent, v James
Dakin, Jr., appellant.

(Docket No. F-554-04)

Del Atwell, East Hampton, N.Y., for appellant.

In a child support proceeding pursuant to Family Court Act article 4, the father appeals from an order of the Family Court, Suffolk County (Hoffman, J.), dated March 13, 2009, which denied his objections to an order of the same court (Raimondi, S.M.), dated January 26, 2009, which, after a hearing, found that he was in willful violation of a prior support order of the same court dated March 22, 2004.

ORDERED that the order dated March 13, 2009, is affirmed, without costs or disbursements.

A determination by a support magistrate that a person is in willful violation of a support order and recommending commitment has no force and effect until confirmed by a Judge of the Family Court (*see* Family Ct Act § 439[a]). Such a determination by a support magistrate does not constitute a final order to which a party may file written objections (*see* Family Ct Act § 439[e]). Here, the father improperly filed written objections to the nonfinal determination of the Support Magistrate dated January 26, 2009. Accordingly, in the order dated March 13, 2009, the Family Court correctly denied the father's objections. The father failed to pursue his sole remedy, which was

July 27, 2010

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to appeal from the final order of the Family Court dated January 26, 2009, confirming the Support Magistrate's determination (*see Matter of Roth v Bowman*, 245 AD2d 521, 522; Family Ct Act § 1112).

The remaining contentions are either without merit or not properly before this Court.

COVELLO, J.P., SANTUCCI, ANGIOLILLO and DICKERSON, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer
Clerk of the Court