

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

D28833
C/kmg

_____AD3d_____

Submitted - October 14, 2010

REINALDO E. RIVERA, J.P.
JOSEPH COVELLO
FRED T. SANTUCCI
SANDRA L. SGROI, JJ.

2009-07466

DECISION & ORDER

In the Matter of Irving Bruckstein, appellant,
v Karen Bruckstein, respondent.

(Docket No. F-10457-05/09G)

Irving Bruckstein, Stroudsburg, Pennsylvania, appellant pro se.

Steven A. Meisner, Garden City, N.Y., for respondent.

In a child support proceeding pursuant to Family Court Act article 4, the father appeals from an order of the Family Court, Nassau County (Singer, J.), dated July 9, 2009, which denied, as untimely, his objections to an order of the same court (Cahn, S.M.), dated March 11, 2009, which denied his petition for downward modification of his child support obligation.

ORDERED that the order dated July 9, 2009, is affirmed, with costs.

Pursuant to Family Court Act § 439(e), objections to an order of a Support Magistrate must be filed within 35 days after the mailing of the order to the aggrieved party (*see Matter of Bodouva v Bodouva*, 53 AD3d 483, 484; *Matter of Hodges v Hodges*, 40 AD3d 639). The objections are deemed filed when received and “date stamped” by the Family Court (*see Matter of Burke v Burke*, 45 AD3d 591, 592). Here, the father established that, although the March 11, 2009, order of the Support Magistrate states that it was mailed to him on March 12, 2009, it was not actually mailed until March 13, 2009. However, the objections are date stamped as received by the Family Court

November 3, 2010

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on April 20, 2009, which is more than 35 days after March 13, 2009. Accordingly, the Family Court properly denied the objections as untimely.

RIVERA, J.P., COVELLO, SANTUCCI and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court