

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

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_____AD3d_____

Submitted - October 21, 2010

A. GAIL PRUDENTI, P.J.
JOSEPH COVELLO
ANITA R. FLORIO
ARIEL E. BELEN, JJ.

2010-00040

DECISION & ORDER

In the Matter of Trudy Ennis, respondent, v Ralph
Pina, appellant.

(Docket No. F-8399-08)

Spada, Ardam & Sibener, PLLC, Smithtown, N.Y. (Paul S. Sibener of counsel), for
appellant.

Harry Tilis, Bohemia, N.Y., for respondent.

In a support proceeding pursuant to Family Court Act article 4, the father appeals from an order of the Family Court, Suffolk County (Hoffmann, J.), dated December 2, 2009, which denied his objections to an order of the same court (Orlando, S.M.), dated October 1, 2009, which, after a hearing, inter alia, directed him to pay child support in the sum of \$1,192.16 per month.

ORDERED that the order is affirmed, with costs.

“Great deference should be given to the determination of the Support Magistrate, who is in the best position to assess the credibility of the witnesses” (*Matter of Tsarova v Tsarov*, 59 AD3d 632, 633; *see Matter of Fragola v Alfaro*, 45 AD3d 684, 685; *Matter of Musarra v Musarra*, 28 AD3d 668, 669). Here, the record supports the Support Magistrate’s finding that the father’s testimony and the documentation proffered regarding his income were not credible. Since the Support Magistrate was presented with insufficient evidence to determine the father’s gross income, it was proper to base the child support award on the needs of the children (*see Family Ct Act §*

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413[1][k]; *Matter of Tsarova v Tsarov*, 59 AD3d at 633; *Matter of Childress v Samuel*, 27 AD3d 295; *Orlando v Orlando*, 222 AD2d 906, 908).

The father's remaining contentions are without merit.

Accordingly, the Family Court properly denied the father's objections.

PRUDENTI, P.J., COVELLO, FLORIO and BELEN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive style with a large, prominent initial "M".

Matthew G. Kiernan
Clerk of the Court