

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

D30159
O/kmb

_____AD3d_____

Submitted - February 3, 2011

DANIEL D. ANGIOLILLO, J.P.
ANITA R. FLORIO
ARIEL E. BELEN
LEONARD B. AUSTIN, JJ.

2010-04002

DECISION & ORDER

In the Matter of Deborah Lusardi, respondent,
v Anthony J. Giovinazzi, appellant.

(Docket No. F-2034-04)

Anthony J. Giovinazzi, Jensen Beach, Florida, appellant pro se.

In a child support proceeding pursuant to Family Court Act article 4, the father appeals from an order of the Family Court, Suffolk County (Hoffmann, J.), dated March 2, 2010, which denied his objections to an order of the same court (Livrieri, S.M.) dated December 23, 2009, which, after a hearing, dismissed his petition for a downward modification of his child support obligation.

ORDERED that the order dated March 2, 2010, is affirmed, without costs or disbursements.

The issues raised by the father on this appeal are not reviewable by this Court. The Family Court denied the father's objections on the ground that he failed to file proof of service of a copy of the objections upon the mother. Family Court Act § 439(e) provides, in pertinent part, that "[a] party filing objections shall serve a copy of such objections upon the opposing party," and that "[p]roof of service upon the opposing party shall be filed with the court at the time of filing of objections and any rebuttal." By failing to file proof of service of a copy of his objections on the mother, the father failed to fulfill a condition precedent to filing timely written objections to the Support Magistrate's order. Consequently, he waived his right to appellate review of the merits of his objections (*see Matter of Simpson v Gelin*, 48 AD3d 693; *Matter of Chukwuogo v Chukwuogo*,

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46 AD3d 558; *Matter of Suffolk County Commr. of Social Servs. [Roman] v Carnegie*, 12 AD3d 683; *Matter of Rinaldi v Rinaldi*, 239 AD2d 506).

ANGIOLILLO, J.P., FLORIO, BELEN and AUSTIN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court