

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

D30403
G/prt

_____AD3d_____

Submitted - February 3, 2011

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

2009-08559

DECISION & ORDER

Erik L. Baker, appellant, v Patricia P. Baker,
respondent.

(Index No. 23739/04)

Erik L. Baker, Astoria, N.Y., appellant pro se.

Jeffrey P. Sharkey, Richmond Hill, N.Y., for respondent.

In an action for a divorce and ancillary relief, the plaintiff appeals from an order of the Supreme Court, Queens County (Strauss, J.), dated July 14, 2009, which denied his motion, inter alia, for a downward modification of his child support obligation set forth in the parties' stipulation dated September 25, 2005, and granted the defendant's cross motion for an award in the sum of \$6,868 for certain school tuition arrears.

ORDERED that the appeal from so much of the order as denied that branch of the plaintiff's motion which was for a downward modification of his child support obligation set forth in the parties' stipulation is dismissed; and it is further,

ORDERED that the order is affirmed insofar as reviewed, with costs.

The appeal from so much of the order as denied that branch of the plaintiff's motion which was for a downward modification of his child support obligation set forth in the parties' stipulation must be dismissed because the right of direct appeal from that portion of the order terminated with the entry of a judgment on December 22, 2009, in the action (*see Matter of Aho*, 39 NY2d 241, 248). The issues raised on the appeal from that portion of the order are brought up for

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review and have been considered on the appeal from that judgment (*see* CPLR 5501[a][1]; *Baker v Baker*, ___ AD3d ___ [decided herewith]).

Under the terms of the parties' stipulation, the plaintiff was in arrears in the sum of \$6,868 for certain school tuition payments. Accordingly, the Supreme Court properly granted the defendant's cross motion (*see Greenberg v Greenberg*, 37 AD3d 410, 412).

The plaintiff's remaining requests for relief are either without merit or not properly before this Court.

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

ENTER:


Matthew G. Kiernan
Clerk of the Court