

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

D30615
O/prt

_____AD3d_____

Submitted - March 8, 2011

JOSEPH COVELLO, J.P.
L. PRISCILLA HALL
PLUMMER E. LOTT
JEFFREY A. COHEN, JJ.

2010-06046

DECISION & ORDER

In the Matter of Amy Rube, appellant, v
Yehuda Tornheim, respondent.

(Docket No. F-6352-99)

Amy Rube, Brooklyn, N.Y., appellant pro se.

Yehuda Tornheim, Wesley Hills, N.Y., respondent pro se.

In a child support proceeding pursuant to Family Court Act article 4, the mother appeals, as limited by her brief, from stated portions of an order of the Family Court, Kings County (Graham, J.), dated May 24, 2010, which, upon an order of the same court (Fasone, S.M.), dated December 18, 2009, made after a hearing, finding that the father willfully violated a prior order of support and recommending that he be incarcerated for a period of six months, inter alia, allowed the father to purge his contempt by posting an undertaking in the sum of only \$3,000 with the Support Collection Unit by a date certain.

ORDERED that the order dated May 24, 2010, is affirmed insofar as appealed from, without costs or disbursements.

Where a willful violation of an order of support is found, the determination as to what sanction to impose lies within the Family Court's discretion (*see Matter of Gorsky v Kessler*, 79 AD3d 746, 747; *Matter of Commissioner of Social Servs. v Rosen*, 289 AD2d 487, 489). Here, upon confirming the Support Magistrate's finding that the father willfully violated a prior order of support, the Family Court did not improvidently exercise its discretion in allowing the father to purge his sentence of incarceration by posting an undertaking in the sum of only \$3,000 with the Support

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Collection Unit by a date certain (*see Provencal-Dayle v Dayle*, 50 AD3d 502, 503; *Matter of Russo v Goldbaum*, 215 AD2d 763, 764).

The mother's remaining contentions are without merit.

COVELLO, J.P., HALL, LOTT and COHEN, 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