

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

D32162
O/kmb

_____AD3d_____

Submitted - June 23, 2011

PETER B. SKELOS, J.P.
ARIEL E. BELEN
L. PRISCILLA HALL
SHERI S. ROMAN, JJ.

2010-00154

DECISION & ORDER

Christine Monahan, respondent, v Brian Monahan,
appellant.

(Index No. 138/03)

Michael G. Paul, New City, N.Y., for appellant.

In a matrimonial action in which the parties were divorced by judgment dated October 1, 2004, the defendant former husband appeals from an order of the Supreme Court, Putnam County (O'Rourke, J.), dated November 20, 2009, which, after a hearing, in effect, determined that he willfully failed to pay child support arrears and committed him to the custody of the Putnam County Sheriff's Department for 10 days, unless he purged himself of his contempt by paying the sum of \$5,000 to the attorney for the plaintiff former wife.

ORDERED that the appeal from so much of the order as committed the defendant former husband to the Putnam County Sheriff's Department for 10 days is dismissed as academic, without costs or disbursements, as the period of commitment has expired (*see Matter of Kainth v Kainth*, 36 AD3d 915; *Matter of Greene v Holmes*, 31 AD3d 760); and it is further,

ORDERED that the order is affirmed insofar as reviewed, without costs or disbursements.

Contrary to the defendant's contention, the record supports the Supreme Court's

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determination that his failure to pay child support arrears was willful (*see* Domestic Relations Law § 245; *Taylor v Taylor*, 83 AD3d 815; *Lopez v Ajose*, 33 AD3d 976).

SKELOS, J.P., BELEN, HALL and ROMAN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court