

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

D32531  
N/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - September 23, 2011

MARK C. DILLON, J.P.  
ARIEL E. BELEN  
SHERI S. ROMAN  
ROBERT J. MILLER, JJ.

2011-02230  
2011-04203

DECISION & ORDER

In the Matter of O. (Anonymous), respondent,  
v M. (Anonymous), appellant.

(Docket No. F-4297-08)

Ronald R. Levine, Poughkeepsie, N.Y., for appellant.

Bruce A. Petito, Poughkeepsie, N.Y., for respondent.

Kelly Romano Brady, Poughkeepsie, N.Y., attorney for the child.

In a proceeding pursuant to Family Court Act article 5 to establish paternity and for an award of child support, Todd M. appeals (1) from an order of the Family Court, Dutchess County (Greenblatt, S.M.), dated March 4, 2011, which, upon an order of filiation of the same court dated November 15, 2010, adjudging him to be the father of the subject child, and after a hearing, *inter alia*, directed him to pay biweekly child support in the sum of \$430, and (2), as limited by his brief, from so much of an order of the same court (Posner, J.), dated April 21, 2011, as denied certain of his objections to the order dated March 4, 2011.

ORDERED that the appeal from the order dated March 4, 2011, is dismissed without costs or disbursements, as that order was superseded by the order dated April 21, 2011; and it is further,

ORDERED that the order dated April 21, 2011, is affirmed insofar as appealed from, without costs or disbursements.

October 11, 2011

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The appellant's arguments concerning the issues of the best interests of the child and equitable estoppel were raised by him, and determined by this Court, on a prior appeal (*see Matter of O. v M.*, 67 AD3d 1018). Under the circumstances, the appellant is barred from raising them again on this appeal (*see Gorelik v Gorelik*, 85 AD3d 856).

Contrary to the appellant's contention, the Family Court had subject matter jurisdiction to issue an order directing him to pay child support, since no order had been previously issued establishing such an obligation on the part of the appellant (*see Matter of Clarke v Clarke*, 68 AD3d 1203).

DILLON, J.P., BELEN, ROMAN and MILLER, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan  
Clerk of the Court