

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

D33091
W/mv

_____AD3d_____

Submitted - October 27, 2011

ANITA R. FLORIO, J.P.
L. PRISCILLA HALL
LEONARD B. AUSTIN
JEFFREY A. COHEN, JJ.

2010-11098

DECISION & ORDER

In the Matter of Galina Ross, respondent,
v Eric Ross, appellant.

(Docket No. F-01893-09)

Eric Ross, Orangeburg, N.Y., appellant pro se.

In a child support proceeding pursuant to Family Court Act article 4, the father appeals, as limited by his brief, from stated portions of an order of the Family Court, Rockland County (Christopher, J.), entered October 1, 2010, which, inter alia, denied his objections to so much of an order of the same court (Miklitsch, S.M.), entered April 19, 2010, as amended June 29, 2010, as, upon findings of fact of the same court (Miklitsch, S.M.), dated February 28, 2010, made after a hearing, imputed an annual income to him in the sum of \$51,279.28 for the purpose of his child support obligation, and granted the mother's petition for an award of child support to the extent of directing him to pay child support in the sum of \$716.32 per month.

ORDERED that the order entered October 1, 2010, is affirmed insofar as appealed from, without costs or disbursements.

The Family Court reasonably found that the father has the ability to pay child support in the sum of \$716.32 per month (*see* Family Ct Act § 413). "A support magistrate is afforded considerable discretion in determining whether to impute income to a parent" (*Matter of Julianska v Majewski*, 78 AD3d 1182, 1183), and we accord deference to a support magistrate's credibility determinations (*see matter of Feng Lucy Luo v Yang*, _____AD3d_____, 2011 NY Slip Op 08362, *1 [2d Dept 2011]; *Matter of Tsarova v Tsarov*, 59 AD3d 632, 633). Here, the Support Magistrate's findings regarding the father's income, which were based on credibility determinations,

December 6, 2011

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are supported by the record. Accordingly, they should not be disturbed (*see Matter of Gebaide v McGoldrick*, 74 AD3d 966, 967; *Matter of Kennedy v Ventimiglia*, 73 AD3d 1066).

The father's remaining contentions either are without merit or refer to matter dehors the record.

FLORIO, J.P., HALL, AUSTIN and COHEN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court