

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

D33360
Y/prt

_____AD3d_____

Submitted - December 2, 2011

DANIEL D. ANGIOLILLO, J.P.
THOMAS A. DICKERSON
L. PRISCILLA HALL
SANDRA L. SGROI, JJ.

2011-02276

DECISION & ORDER

Onofrio Rocco, appellant, v
Joann Rocco, respondent.

(Index No. 50165/10)

Brian D. Perskin, Brooklyn, N.Y., for appellant.

Caruso, Caruso & Branda, P.C., Brooklyn, N.Y. (Grace M. Borrino of counsel), for
respondent.

In an action for a divorce and ancillary relief, the plaintiff appeals from an order of the Supreme Court, Kings County (Adams, J.), entered February 28, 2011, which, upon a decision of the same court dated January 5, 2011, in effect, granted that branch of the defendant's motion which was to hold him in contempt for failing to comply with certain provisions of a pendente lite order dated September 21, 2010.

ORDERED that the order is affirmed, with costs.

Contrary to the plaintiff's contention, the Supreme Court properly determined, without conducting a hearing, that his acknowledged failure to comply with certain provisions of the September 21, 2010, pendente lite order was willful, and that an adjudication of contempt was warranted (*see* Domestic Relations Law § 245; *Lopez v Ajose*, 33 AD3d 976; *York v York*, 250 AD2d 838; *Turk v Turk*, 226 AD2d 448; *Farkas v Farkas*, 209 AD2d 316). The plaintiff's allegation that he was unable to meet his pendente lite obligations because of his reduced income was unsubstantiated and thus "insufficient to warrant a hearing" (*Farkas v Farkas*, 209 AD2d at 317-318; *see Lopez v Ajose*, 33 AD3d 976; *Ovsanikow v Ovsanikow*, 224 AD2d 786; *Rosenblitt v Rosenblitt*,

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121 AD2d 375).

The plaintiff's remaining contentions are without merit.

ANGIOLILLO, J.P., DICKERSON, HALL and SGROI, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court