

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

D33561
Y/ct

_____AD3d_____

Submitted - December 12, 2011

DANIEL D. ANGIOLILLO, J.P.
PLUMMER E. LOTT
LEONARD B. AUSTIN
JEFFREY A. COHEN, JJ.

2011-03833

DECISION & ORDER

In the Matter of Tonny Choy, appellant, v Mai Ling
Lai, respondent.

(Docket No. F-02950-08/10E)

David Schrager, Staten Island, N.Y., for appellant.

In a proceeding pursuant to Family Court Act article 4, the father appeals from an order of the Family Court, Suffolk County (Hoffman, J.), dated March 14, 2011, which denied his objections to an order of the same court (Parisi, S.M.), dated December 28, 2010, which denied his motion, inter alia, for leave to renew his prior motion to vacate a support order of the same court (Parisi, S.M.), dated June 26, 2008, entered upon his consent, which had been denied in an order of the same court dated June 18, 2010.

ORDERED that the order dated March 14, 2011, is affirmed, without costs or disbursements.

A motion for leave to renew “shall be based upon new facts not offered on the prior motion that would change the prior determination” (CPLR 2221[e][2]) and “shall contain reasonable justification for the failure to present such facts on the prior motion” (CPLR 2221[e][3]; *see Barnett v Smith*, 64 AD3d 669, 670; *Chernysheva v Pinchuck*, 57 AD3d 936, 937). Here, that branch of the father’s motion which was for leave to renew his motion to vacate the support order dated June 26, 2008, was properly denied by the Support Magistrate, as the allegedly new facts offered would not have changed the prior determination (*see* CPLR 2221[e][2]).

January 17, 2012

Page 1.

MATTER OF CHOY v MAY LING LAI

The father's remaining contentions are either without merit or not properly before this Court.

ANGIOLILLO, J.P., LOTT, AUSTIN and COHEN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court