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

D33812
N/prt

_____AD3d_____ Submitted - January 13, 2012

DANIEL D. ANGIOLILLO, J.P.
THOMAS A. DICKERSON
LEONARD B. AUSTIN
JEFFREY A. COHEN, JJ.

2011-04314 DECISION & ORDER

In the Matter of Silva Hurston, respondent,
v Kendall Southlea, appellant.

(Docket No. F-4583-01)

Kendall Southlea, Carson, California, appellant pro se.

In a child support proceeding pursuant to Family Court Act article 4, the father appeals from an order of the Family Court, Westchester County (Malone, J.), dated March 18, 2011, which denied his motion to vacate an order of disposition of the same court (Jamieson, J.), entered December 26, 2002, which, upon his default in appearing at a hearing, granted the mother's petition for an award of child support arrears, and directed the entry of a money judgment in favor of the mother and against him in the principal sum of $12,053.

ORDERED that the order dated March 18, 2011, is affirmed, without costs or disbursements.

The Family Court providently exercised its discretion in denying the father's motion to vacate the order of disposition entered December 26, 2002, upon his default in appearing at a hearing. A party seeking to vacate a default must establish a reasonable excuse for the default and a potentially meritorious defense (*see* CPLR 5015[a][1]; *Matter of Morales v Marma,* 88 AD3d 722, 722; *Matter of Petulla v Petulla,* 85 AD3d 925, 926). "'The determination whether to relieve a party of an order entered upon his or her default is a matter left to the sound discretion of the Family Court'" (*Matter of Cassidy Sue R.,* 58 AD3d 744, 745, quoting *Matter of Francisco R.,* 19 AD3d 502, 502 [internal quotation marks omitted]; *see Matter of Tenisha Tishonda T.,* 302 AD2d 534, 534). Here, the father failed to establish a reasonable excuse for his default (*see Matter of Joosten*

v Joosten, 32 AD3d 1030, 1030; *Matter of Lutz v Goldstone*, 31 AD3d 449, 450; *Matter of Oliphant v Oliphant*, 21 AD3d 376).

The father's remaining contentions either are without merit, refer to matter dehors the record, or are otherwise not properly before this Court.

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

ENTER:

Aprilanne Agostino
Clerk of the Court