

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

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Submitted - March 13, 2012

RANDALL T. ENG, P.J.  
PETER B. SKELOS  
MARK C. DILLON  
LEONARD B. AUSTIN, JJ.

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2011-04513

DECISION & ORDER

In the Matter of Raymond Jacobi, respondent,  
v Elani Jacobi, appellant.

(Docket No. F-23399-07)

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Elani Jacobi, Flushing, N.Y., appellant pro se.

In a support proceeding pursuant to Family Court Act article 4, the wife appeals from an order of the Family Court, Queens County (Hunt, J.), dated March 31, 2011, which denied her objections to an order of the same court (Friederwitzer, S.M.), dated September 10, 2010, granting the petition to the extent of awarding the husband \$100 per week in spousal support.

ORDERED that the order dated March 31, 2011, is reversed, on the law, without costs or disbursements, the objections are granted, the order dated September 10, 2010, is vacated, and the petition is denied.

Pursuant to Family Court Act § 412, “[a] married person is chargeable with the support of his or her spouse and, if possessed of sufficient means or able to earn such means, may be required to pay for his or her support a fair and reasonable sum, as the court may determine, having due regard to the circumstances of the respective parties.” This requires “a delicate balancing of each party’s needs and means” (*Matter of Nisita v Nisita*, 81 AD3d 832, 832 [internal quotation marks omitted]; see *Matter of Shreffler v Shreffler*, 283 AD2d 679, 680; *Matter of Mastrogiacono v Mastrogiacono*, 149 AD2d 708, 709). Thus, the determination of a wife’s spousal support obligation rests on the particular circumstances of the case, involving a balancing of factors such as her financial means, her need to have money on which to live after payments are made, the duration of the marriage, and the husband’s ability to support himself (see *Matter of Nisita v Nisita*, 81 AD3d 832; *Matter of Christian v Christian*, 5 AD3d 765). Under the circumstances presented here, there

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was no basis for the Support Magistrate's determination with respect to spousal support. The wife did not possess sufficient means to support the husband. Based upon our review of the record, the evidence does not warrant a spousal support award to the husband.

In light of our determination, the wife's remaining contentions need not be considered.

ENG, P.J., SKELOS, DILLON and AUSTIN, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court