

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

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N/kmb

_____AD3d_____

Submitted - September 27, 2012

RANDALL T. ENG, P.J.
ANITA R. FLORIO
SANDRA L. SGROI
ROBERT J. MILLER, JJ.

2011-08864

DECISION & ORDER

In the Matter of Scott M. Nelson, respondent,
v Pedro Hernandez, appellant.

(Docket No. O-20399-10)

Yasmin Daley Duncan, Brooklyn, N.Y., for appellant.

Paul B. Guttenberg, Syosset, N.Y., attorney for the children.

In a family offense proceeding pursuant to Family Court Act article 8, Pedro Hernandez appeals from an order of the Family Court, Queens County (Lebwohl, J.), dated August 4, 2011, which denied his motion to vacate an order of protection of the same court dated April 29, 2011, entered upon his default in appearing at a hearing.

ORDERED that the order dated August 4, 2011, is affirmed, without costs or disbursements.

The Family Court properly denied Pedro Hernandez's motion to vacate an order of protection entered upon his default in appearing at a hearing. A party seeking to vacate an order entered upon default must establish that there was a reasonable excuse for the default and a potentially meritorious defense (*see Adolph H. Schreiber Hebrew Academy of Rockland, Inc. v Needleman*, 90 AD3d 791). Here, Hernandez failed to satisfy that standard.

Hernandez's remaining contention is without merit.

ENG, P.J., FLORIO, SGROI and MILLER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

November 14, 2012

MATTER OF NELSON v HERNANDEZ