

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

883

CAF 12-00272

PRESENT: SCUDDER, P.J., FAHEY, LINDLEY, SCONIERS, AND MARTOCHE, JJ.

IN THE MATTER OF JOSE CEDENO,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

BONNIE KNOWLTON, RESPONDENT-RESPONDENT.

THOMAS N. MARTIN, ROCHESTER, FOR PETITIONER-APPELLANT.

Appeal from an order of the Family Court, Cattaraugus County (Michael L. Nenno, J.), entered April 25, 2011 in a proceeding pursuant to Family Court Act article 4. The order denied the objections of petitioner to the order of the Support Magistrate.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: Contrary to petitioner father's contention, Family Court properly denied his objections to the Support Magistrate's order that, after a hearing, determined that the parties' child was not emancipated and continued the father's child support obligation until the child turned 21 years of age. "A parent is obligated to support his or her child until the age of 21 (see Family Ct Act § 413) unless the child becomes emancipated, which occurs once the child becomes economically independent through employment and is self-supporting" (*Matter of Smith v Smith*, 85 AD3d 1188, 1188; see *Matter of Drumm v Drumm*, 88 AD3d 1110, 1112-1113; *Matter of Burr v Fellner*, 73 AD3d 1041, 1041-1042; *Matter of Thomas B. v Lydia D.*, 69 AD3d 24, 28). Here, although the parties' child worked on a full-time basis and filed individual income tax returns, the fact that respondent mother continued to pay for the child's food, gas, and cell phone demonstrates that the child was not economically independent and self-supporting (see *Drumm*, 88 AD3d at 1113; *Smith*, 85 AD3d at 1188-1189; *Thomas B.*, 69 AD3d at 31; cf. *Matter of Lowe v Lowe*, 67 AD3d 682, 683; *Matter of Fortunato v Fortunato*, 242 AD2d 720, 721).

Entered: September 28, 2012

Frances E. Cafarell
Clerk of the Court