

State of New York Court of Appeals

MEMORANDUM

This memorandum is uncorrected and subject to revision before publication in the New York Reports.

No. 104
The People &c.,
Respondent,
v.
Steven Baisley,
Appellant.

Richard L. Herzfeld, for appellant.
Andrew R. Kass, for respondent.

MEMORANDUM:

The order of the Appellate Term should be affirmed.

Defendant's challenge to the authority of Justice Court over criminal charges arising from his noncompliance with a child support order is not properly before this Court.

Contrary to the parties’ mistaken representation below, the underlying support order was not issued by Family Court but by Supreme Court in the context of defendant’s contested matrimonial proceeding. As defendant concedes, Supreme Court has constitutional authority to issue such an order (see NY Const Art VI, § 7; Family Court Act § 114; see generally Merrill Sobie, Practice Commentaries, McKinney’s Cons. Laws of N.Y., Family Court Act § 411 [“Family Court is ... powerless to determine those issues which comprise a [pending] matrimonial action, including child support, unless the matter is specifically referenced to the Family Court by the Supreme Court”]). As a consequence, we have no occasion to opine on defendant’s claim that, pursuant to the Family Court Act, Family Court has exclusive and continuing jurisdiction over any criminal charges based on violations of its own support order.

* * * * *

Order affirmed, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

Decided October 23, 2018