

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

D56756
L/htr

_____AD3d_____

Submitted - September 7, 2018

RUTH C. BALKIN, J.P.
SANDRA L. SGROI
HECTOR D. LASALLE
BETSY BARROS, JJ.

2017-10347

DECISION & ORDER

In the Matter of Frantz Mervil, appellant, v Ruth
Exhume, respondent.

(Docket No. F-09511-07/16G)

Frantz Mervil, Hempstead, NY, appellant pro se.

In a proceeding pursuant to Family Court Act article 4, the father appeals from an order of the Family Court, Nassau County (Robin M. Kent, J.), dated August 22, 2017. The order denied the father's objections to an order of the same court (Nadine J. Satterthwaite, S.M.) dated June 8, 2017, which, after a hearing, dismissed his petition for a downward modification of his child support obligation.

ORDERED that the order dated August 22, 2017, is affirmed, without costs or disbursements.

We agree with the Support Magistrate's determination in an order dated June 8, 2017, that the father's petition for a downward modification of his child support obligation was barred by the doctrine of res judicata (*see Goldman v Rio*, 104 AD3d 729, 730; *Matter of Waldman v Waldman*, 47 AD3d 638, 639; *Matter of Perna v Perna*, 12 AD3d 448, 448). Having failed to show a substantial change in circumstances since the prior child support proceeding, the father was precluded from relitigating the issue in this subsequent proceeding on his petition for a downward modification (*see Matter of Figueroa v Herring*, 61 AD3d 976, 977; *Matter of Solis v Marmolejos*, 50 AD3d 691, 692).

October 3, 2018

Page 1.

MATTER OF MERVIL v EXHUME

Accordingly, we agree with the Family Court's denial of the father's objections to the order dated June 8, 2017, which dismissed the father's petition for a downward modification.

BALKIN, J.P., SGROI, LASALLE and BARROS, JJ., concur.

ENTER: 
Aprilanne Agostino
Clerk of the Court