

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

D57729  
Q/htr

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - November 8, 2018

REINALDO E. RIVERA, J.P.  
RUTH C. BALKIN  
JOSEPH J. MALTESE  
BETSY BARROS, JJ.

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2018-00610

DECISION & ORDER

In the Matter of Susan Gavin, appellant, v Lawrence  
J. Worner, respondent.

(Docket No. F-1768-11/17H)

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Stephen Bergstein, New Paltz, NY, for appellant.

In a proceeding pursuant to Family Court Act article 4, the mother appeals from an order of the Family Court, Orange County (Victoria B. Campbell, J.), entered December 4, 2017. The order denied the mother's objections to an order of the same court (Barbara O. Afriyie, S.M.) entered October 16, 2017, which, after a hearing, dismissed her petition for a downward modification of her child support obligation.

ORDERED that the order entered December 4, 2017, is affirmed, without costs or disbursements.

We agree with the Support Magistrate's determination in the order entered October 16, 2017, that the mother's petition for a downward modification of her child support obligation was barred by the doctrine of res judicata (*see Matter of Mervil v Exhume*, 165 AD3d 675; *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 mother was precluded from relitigating the issue in this subsequent proceeding on her petition for a downward modification (*see Matter of Figueroa v Herring*, 61 AD3d 976, 977; *Matter of Solis v Marmolejos*, 50 AD3d 691, 692).

The mother's remaining contention is not properly before this Court.

Accordingly, we agree with the Family Court's denial of the mother's objections to


December 26, 2018

Page 1.

MATTER OF GAVIN v WORNER

the order entered October 16, 2017.

RIVERA, J.P., BALKIN, MALTESE and BARROS, JJ., concur.

ENTER:   
Aprilanne Agostino  
Clerk of the Court