

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

719

CAF 14-00693

PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, VALENTINO, AND DEJOSEPH, JJ.

IN THE MATTER OF ANDREA E. RAFFERTY,
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

MICHAEL J. RAFFERTY, RESPONDENT-APPELLANT.

JOHN J. RASPANTE, UTICA, FOR RESPONDENT-APPELLANT.

LAW OFFICE OF TIMOTHY A. BENEDICT, ROME (TIMOTHY A. BENEDICT OF
COUNSEL), FOR PETITIONER-RESPONDENT.

Appeal from an order of the Family Court, Oneida County (Joan E. Shkane, J.), entered March 24, 2014 in a proceeding pursuant to Family Court Act article 4. The order committed respondent to jail for a period of six months.

It is hereby ORDERED that said appeal is unanimously dismissed without costs.

Memorandum: Respondent father appeals from an order committing him to jail for six months based on a finding of the Support Magistrate that he willfully violated a prior child support order. Respondent contends that the Support Magistrate erred in finding that his admitted failure to pay child support was willful, inasmuch as he demonstrated at the violation hearing that he was unable to pay the amount due. Because respondent has appealed only from the order of commitment, and not from the order finding that he willfully violated the child support order, the appeal must be dismissed (*see Matter of McDowell v Domenech*, 31 AD3d 554, 555; *Matter of St. Lawrence County Dept. of Social Servs. v Pratt*, 24 AD3d 1050, 1050, lv denied 6 NY3d 713; *Matter of Dauria v Dauria*, 286 AD2d 879, 880).

Entered: June 19, 2015

Frances E. Cafarell
Clerk of the Court