

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

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CAF 14-02262

PRESENT: WHALEN, P.J., PERADOTTO, LINDLEY, DEJOSEPH, AND NEMOYER, JJ.

IN THE MATTER OF ROSE M. GIBSON,
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

THOMAS W. MURTAUGH, JR., RESPONDENT-APPELLANT.

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

Appeal from an order of the Family Court, Herkimer County (John J. Brennan, J.), entered November 18, 2014 in a proceeding pursuant to Family Court Act article 4. The order determined that respondent had willfully failed to obey a court order.

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

Memorandum: In this proceeding pursuant to Family Court Act article 4, respondent father appeals from an order confirming the determination of the Support Magistrate that he willfully disobeyed an order to pay child support and owed petitioner mother arrears and interest. We affirm. The findings of the Support Magistrate are entitled to great deference (*see Matter of Perez v Johnson*, 128 AD3d 1469, 1469) and, contrary to the father's contention, he failed to meet his burden of establishing that the mother voluntarily and intentionally waived her right to prospective child support payments (*see Matter of Hastie v Tokle*, 122 AD3d 1129, 1129-1130; *Matter of Wendel v Nelson*, 116 AD3d 1057, 1057-1058).

Entered: July 1, 2016

Frances E. Cafarell
Clerk of the Court