

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: February 8, 2007

97641

In the Matter of BETTY J.
SUTTON,

Respondent,

v

MEMORANDUM AND ORDER

SHANE MUNDY,

Appellant.

Calendar Date: November 17, 2005

Before: Mercure, J.P., Peters, Mugglin, Rose and Kane, JJ.

Kara M. O'Connor, New York City, for appellant.

Kane, J.

Appeal from an order of the Family Court of Chenango County (Campbell, J.), entered July 26, 2004, which, inter alia, granted petitioner's application, in a proceeding pursuant to Family Ct Act article 4, to find respondent in willful violation of a prior order of support and placed respondent on probation.

Family Court issued an order placing respondent on probation after finding that he willfully violated an order of support. This Court found that Family Court never decided respondent's motion to dismiss the support violation petition for lack of personal jurisdiction, and we twice remitted the matter to Family Court to hold a hearing or otherwise render a determination on that motion (30 AD3d 698 [2006]; 24 AD3d 1128 [2005]). Family Court transferred the matter to Supreme Court (Dowd, J.), which held a traverse hearing. Supreme Court found that respondent was never properly served in the support violation proceeding, requiring dismissal of the petition in that


matter for lack of personal jurisdiction. In accordance with that determination and the court's December 8, 2006 order, respondent is entitled to a reversal and dismissal of the petition.

Respondent's requests for monetary damages and other relief are not properly before this Court.

Mercure, J.P., Peters, Mugglin and Rose, JJ., concur.

ORDERED that the order is reversed, on the law, without costs, and petition dismissed.

ENTER:



Michael J. Novack
Clerk of the Court