

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

Decided and Entered: April 30, 2009

501599

In the Matter of KATHLEEN
CLARK,

Respondent,

v

MEMORANDUM AND ORDER

MICHAEL CLARK,

Appellant.

Calendar Date: March 27, 2009

Before: Mercure, J.P., Spain, Kavanagh, Stein and McCarthy, JJ.

Marcel J. Lajoy, Albany, for appellant.

McCarthy, J.

Appeals from two orders of the Family Court of Schenectady County (Powers, J.), entered September 14, 2006, which, in a proceeding pursuant to Family Ct Act article 4, among other things, revoked respondent's suspended sentence of incarceration.

On March 1, 2006, a Support Magistrate found that respondent willfully failed to obey an order of child support and calculated arrears. Respondent did not file any objections to the Support Magistrate's order (see Family Ct Act § 439 [e]). Thereafter, Family Court (Assini, J.) confirmed the finding of a willful violation and issued a May 1, 2006 order sentencing him to 90 days in jail, which was suspended on the condition that he pay as ordered. Respondent did not appeal from this order.

Following respondent's failure to comply with the May 1, 2006 order, petitioner brought an application to revoke the suspended sentence. The application included a request for

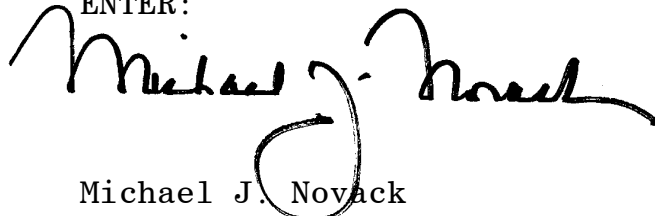
counsel fees. Following a hearing, Family Court (Powers, J.) revoked the suspended sentence and committed respondent to 90 days in jail, but gave him an additional opportunity to purge his willful violation by paying approximately \$4,300. The court also awarded counsel fees and ordered the payment of additional arrears. Two orders were thereafter entered on September 14, 2006, namely, an order directing the payment of arrears and an order of commitment. Respondent appeals from both orders.

The sole allegations of error and impropriety raised on appeal relate to the Support Magistrate's March 1, 2006 order, to which no objections were filed, and the May 1, 2006 confirmation order, from which no appeal was taken. All arguments and alleged improprieties stemming from these orders are not properly before this Court (see Matter of Regan v Zalucky, 56 AD3d 825, 826-827 [2008]; Matter of St. Lawrence County Dept. of Social Servs. v Pratt, 24 AD3d 1050 [2005], lv denied 6 NY3d 713 [2006]; Matter of Sales v Brozzo, 3 AD3d 807, 807-808 [2004], lv denied 2 NY3d 706 [2004]; Matter of Dauria v Dauria, 286 AD2d 879, 880 [2001]). There being no other issue raised with respect to either order entered on September 14, 2006, we affirm.

Mercure, J.P., Spain, Kavanagh and Stein, JJ., concur.

ORDERED that the orders are affirmed, without costs.

ENTER:

A handwritten signature in black ink, appearing to read "Michael J. Novack". The signature is written in a cursive style with a large, looping initial "M".

Michael J. Novack
Clerk of the Court