

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

Decided and Entered: July 12, 2012

514049

PATRICK MICHAEL SEVERING,
Appellant,

v

MEMORANDUM AND ORDER

DENISE MICHELLE SEVERING,
Respondent.

Calendar Date: May 21, 2012

Before: Rose, J.P., Spain, Malone Jr., Kavanagh and
Egan Jr., JJ.

Ricciani & Jose, LLP, Monticello (Jacqueline Ricciani of
counsel), for appellant.

Orseck Law Offices, PLLC, Liberty (Kirk O. Orseck of
counsel), for respondent.

Kavanagh, J.

Appeal from an order of the Supreme Court (Cahill, J.),
entered September 26, 2011 in Sullivan County, which denied
plaintiff's motion to partially vacate a stipulation of
settlement.

In February 2000, a judgment of divorce incorporated by
reference, but did not merge, the parties' December 1999
stipulation of settlement, which required plaintiff (hereinafter
the husband) to pay \$287 per week in child support. In May 2001,
defendant (hereinafter the wife) moved by order to show cause to
hold the husband in contempt for failing to make these child

support payments.¹ As a result, Supreme Court (Kane, J.), issued an order, on consent, which directed the husband to pay \$287 per week in child support through the child support collection unit.

Some 10 years later, the wife, in May 2011, filed a petition alleging that the husband failed to make the required child support payments and owed nearly \$10,000 in arrears. In response, the husband moved to vacate that part of the stipulation that required him to pay child support arguing that it did not comply with the Child Support Standards Act (see Domestic Relations Law § 240 [1-b] [hereinafter CSSA]). Supreme Court (Cahill, J.) denied the husband's motion, prompting this appeal.

We affirm. The parties' oral stipulation, which was placed on the record by the husband's counsel, stated that the provision requiring child support was consistent with the CSSA and each party informed Supreme Court that they understood that the amount of child support to be paid by the husband was consistent with the CSSA guidelines. Further, the husband's counsel submitted to the court a worksheet that documented how the amount to be paid by the husband for child support was calculated and how it conformed to the CSSA. As such, we reject the husband's claim that the stipulation failed to meet the requirements of the CSSA (see Domestic Relations Law § 240 [1-b] [h]; McCarthy v McCarthy, 77 AD3d 1119, 1120 [2010]; Sullivan v Sullivan, 46 AD3d 1195, 1196-1197 [2007]). As for his contention that the calculation of his child support obligation failed to take into account certain deductions, this argument was not raised before Supreme Court and cannot be raised for the first time on appeal (see generally Matter of Marcklinger v Liebert, 72 AD3d 1431, 1433 [2010]; Matter of Van Buren v Burnett, 58 AD3d 900, 902 [2009]).

Rose, J.P., Spain, Malone Jr. and Egan Jr., JJ., concur.

¹ The wife also filed a petition in Family Court alleging that the husband had violated the child support order.

ORDERED that the order is affirmed, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive style with a large, prominent "R" at the beginning.

Robert D. Mayberger
Clerk of the Court