

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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G/htr

_____AD3d_____

Submitted - March 6, 2020

WILLIAM F. MASTRO, J.P.
SHERI S. ROMAN
JOSEPH J. MALTESE
BETSY BARROS, JJ.

2019-02891

DECISION & ORDER

In the Matter of Heather Christy, appellant,
v Frank Christy, respondent.

(Docket No. O-7692-18)

Wand & Goody, LLP, Huntington, NY (Jennifer H. Goody of counsel), for appellant.

Anthony DeCarolis, PLLC, Oyster Bay, NY, for respondent.

In a family offense proceeding pursuant to Family Court Act article 8, the petitioner appeals from an order of the Family Court, Suffolk County (Rosann O. Orlando, Ct. Atty. Ref.), dated March 13, 2019. The order denied the petitioner’s motion pursuant to Family Court Act § 842(f) for an award of counsel fees.

ORDERED that the order is affirmed, with costs.

In this family offense proceeding pursuant to Family Court Act article 8, the Family Court, after a hearing, issued an order of protection against Frank Christy and in favor of the petitioner. Thereafter, the petitioner moved pursuant to Family Court Act § 842(f) for an award of counsel fees. The court, noting, among other things, that “[t]he matter was repeatedly adjourned by . . . counsel [for both parties] for a myriad of reasons” and that each party “contributed to the escalating legal costs,” denied the motion. The petitioner appeals.

Pursuant to Family Court Act § 842(f), the court may direct a party “to pay the reasonable counsel fees and disbursements involved in obtaining [an order of protection] of the person who is protected by such order.” The award of counsel fees is committed to the discretion of the Family Court (*see Matter of Grald v Grald*, 33 AD3d 922, 923; *see also Matter of Barcia v Barcia*, 90 AD3d 921). In determining whether to award counsel fees, the court may consider “the

April 29, 2020

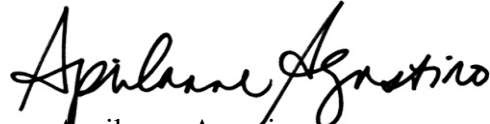
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parties' ability to pay, the nature and extent of the services rendered, the complexity of the issues involved, and counsel's experience, ability, and reputation" (*Matter of Grald v Grald*, 33 AD3d at 923), as well as "the parties' positions and actions during the litigation" (*Matter of Herschbein v Herschbein*, 308 AD2d 585, 585). Here, upon considering all of the circumstances of this case, including the conduct of the parties, we agree with the Family Court's determination denying the petitioner's motion pursuant to Family Court Act § 842(f) for an award of counsel fees (*see Matter of Barcia v Barcia*, 90 AD3d at 921).

MASTRO, J.P., ROMAN, MALTESE and BARROS, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court