

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

1404

CAF 13-02244

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

IN THE MATTER OF CATTARAUGUS COUNTY DEPARTMENT OF
SOCIAL SERVICES, ON BEHALF OF MARK P. QUINN,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

EMILY N. GILROY, RESPONDENT-RESPONDENT.

STEPHEN D. MILLER, OLEAN, FOR PETITIONER-APPELLANT.

HEATHER A. TOMES, DELEVAN, FOR RESPONDENT-RESPONDENT.

Appeal from an order of the Family Court, Cattaraugus County (Michael L. Nenno, J.), entered September 23, 2013 in a proceeding pursuant to Family Court Act article 4. The order denied petitioner's objections to the order of the Support Magistrate.

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

Memorandum: Petitioner appeals from an order denying its objections to the order of the Support Magistrate insofar as it reduced the amount of respondent mother's child support obligation. Contrary to petitioner's contention, we conclude that Family Court did not abuse its discretion in declining to impute income to respondent (*see Matter of Disidoro v Disidoro*, 81 AD3d 1228, 1230, *lv denied* 17 NY3d 705), or in calculating her child support obligation based upon her current income (*see Chiotti v Chiotti*, 12 AD3d 995, 997).

Entered: December 31, 2015

Frances E. Cafarell
Clerk of the Court