

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

DEB,	:	NO. 00-20,391
Plaintiff	:	
	:	
vs.	:	CIVIL ACTION - Law
	:	In Divorce
BAB,	:	Exceptions
Defendant	:	

OPINION AND ORDER

Before the Court are Plaintiff's exceptions to the Master's Report and Recommendation filed October 9, 2000. Argument on the exceptions was heard July 2, 2001.

Plaintiff filed for divorce on the grounds of indignities and, in an amended complaint, on the grounds of adultery. Plaintiff then moved for appointment of a Master on these claims for divorce and a Master's Hearing was held on September 27, 2000. In his Report and Recommendation, the Master found insufficient evidence of either adultery or indignities and also that Plaintiff was not the innocent and injured spouse. The Master therefore recommended that Plaintiff's request for a divorce be denied. Plaintiff filed exceptions to the recommendations, contending the Master abused his discretion in failing to grant a divorce on the grounds of adultery, abused his discretion in failing to grant a divorce on the grounds of indignities, erred in ruling that Plaintiff was not an innocent and injured spouse, and erred in according no weight to the evidence of the pregnancy kit purchased by Defendant as evidence of adultery. These will be addressed seriatim.

With respect to the finding of insufficient evidence of adultery, after a review of the transcript, the Court agrees with the Master that Plaintiff failed to prove adultery on Defendant's part.

With respect to the contention the Master abused his discretion in failing to find indignities, again the Court agrees with the Master's conclusions, after reviewing the transcript.

With respect to the Master's determination that Plaintiff was not an innocent and injured spouse, the Court agrees. Defendant presented credible evidence that Plaintiff was as much at fault as she in ruining the marriage. Plaintiff's constant accusations and name calling of Defendant contributed to the demise of the marriage just as surely as did Defendant's frequent nights out with girlfriends.

Finally, with respect to the evidence of the pregnancy kit, the Master did consider such but found that it did not constitute evidence of adultery based upon Defendant's explanation. The Court finds no error in this regard.

After reviewing the transcript, the Court agrees with the Master's findings of fact and conclusions of law and therefore, with his recommendation that the Divorce request be denied.

ORDER

AND NOW, this day of July, 2001, for the foregoing reasons, the Master's Report and Recommendation filed October 9, 2000 is hereby adopted by the Court and Plaintiff's request for a divorce is hereby denied.

Costs of \$375.00 are hereby assessed against Plaintiff. The Prothonotary is directed to apply the deposit of \$375.00 to these costs.

By the Court,

Dudley N. Anderson, Judge

cc: John Campana, Esq.
 Janice Yaw, Esq.
 Family Court
 Prothonotary
 Gary Weber, Esq.
 Hon. Dudley N. Anderson