

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA

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|--------------------|---|---------------|
| STANLEY J. WINNER, | : | |
| Plaintiff | : | |
| | : | |
| v. | : | No. 00-21,013 |
| | : | |
| DORIS J. WINNER, | : | |
| Defendant | : | |

OPINION

Issued Pursuant to R.A.P. 1925(a)

Stanley Winner has appealed this court’s order finding him in contempt of the court order of March 14, 2002, entered by the Hon. Dudley N. Anderson, which required him to pay \$10,585.00 on or before April 30, 2002, and \$756.00 each month thereafter. Judge Anderson’s order was entered in response to a petition to enforce the pre-nuptial agreement, filed by Mrs. Winner. It is noted that the March 14, 2002 order was itself little more than an enforcement of the stipulated order of December 21, 2000.

In that stipulated order of December 21, 2000, the parties agreed that under the pre-nuptial agreement Mr. Winner was responsible for paying all of Mrs. Winner’s household expenses until their divorce is final. Mr. Winner freely admits he did not pay these monthly expenses. Judge Anderson’s order of March 14, 2002 calculates the amount of Mrs. Winner’s monthly expenses which were unpaid at that point. The order also awards Mrs. Winner \$756.00 per month from that point on, which is a low estimate of her monthly expenses. This \$756.00 is also a rough estimate of the pension benefit she is entitled to receive if she survives Mr. Winner.¹

¹ It appears Judge Anderson’s order of March 14, 2002 contains an error, in that it orders Mr. Winner to continue to pay the \$756.00 per month “until such time as the Air Force quattro [sic] is accepted and paid to Mrs. Winner in accordance with the prenuptial agreement.” That conflicts with Paragraph XXII(2) of the prenuptial agreement, which states Mrs. Winner will receive 75% of Mr. Winner’s pension if she survives him. Unfortunately, this error was not brought to this court’s attention at the contempt hearing, but to the extent the contempt order directs Mr. Winner to continue to pay the monthly payments “pursuant to the order of 14 March 2002,” that portion of the order is also in error. This pension issue, however, is entirely separate from Mr. Winner’s obligation to pay Mrs. Winner’s monthly expenses until a divorce decree is entered, which is the subject of the contempt finding on appeal.

Mr. Winner claims, in his Statement of Matters Complained of on Appeal, that this court has no subject matter jurisdiction because Mrs. Miller was never qualified to share and participate in Mr. Winner's air force pension. The pension issue is irrelevant to this appeal, because the order on appeal found Mr. Winner in contempt of his failure to pay Mrs. Winner's monthly expenses. There is no finding of contempt regarding the pension issue. Moreover, the pension issue has nothing to do with Mr. Winner's obligation to pay Mrs. Winner's monthly expenses until the decree is granted. He has not paid these expenses, and that is the basis for this court's finding of contempt.

Additionally, Mr. Winner's contention that the Air Force will not recognize any such Qualified Domestic Relations Order is simply not viable. Mr. Winner has offered no proof that he has even submitted a QDRO, and it appears highly unlikely the Air Force will reject the QDRO if Mr. Winner ever gets around to submitting it.

What this boils down to is that Mr. Winner *twice* agreed to pay all Ms. Winner's household expenses incurred until the entry of a divorce decree. He agreed once when he signed the pre-nuptial agreement, and he agreed again on December 21, 2000. The pension issue is simply a red herring Mr. Winner is using to further delay the inevitable payment of this money.

BY THE COURT,

Clinton W. Smith, P.J.

cc: Dana Jacques, Esq., Law Clerk
Hon. Clinton W. Smith
Anthony Miele, Esq.
Richard Callahan, Esq.
Gary Weber, Esq.