

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

TB,		: NO. 03-20,270
	Petitioner	:
		:
vs.		:
		: DOMESTIC RELATIONS SECTION
MD, JR.,		:
	Respondent	: Exceptions

OPINION AND ORDER

Before the Court are Respondent's exceptions to the Family Court Order of May 6, 2003, which accepted for registration an order entered March 16, 1993 in Richmond County, Georgia. Argument on the exceptions was heard August 6, 2003.

Respondent contends the Hearing Officer erred in registering the Order with arrearages of \$15,000.00. It is noted the parties' son has graduated from high school and is now emancipated and that the request for registration seeks collection of an arrearage only. Respondent does not contest the appropriateness of registering the Order in Lycoming County, only the amount of the arrearage, alleging he has made certain payments and transfers of property to Petitioner, which should have been credited against his support obligation and the arrearage is therefore less than the amount registered.¹

Respondent specifically offered evidence that after the parties were divorced, he transferred his interest in the marital residence, which was titled in joint names, to Petitioner without payment from Petitioner, and further, that he paid off certain marital debts which were owed at the time of separation. The parties were divorced by decree dated March 16, 1993, in

¹ Pursuant to 23 Pa.C.S. Sections 7606 and 7607, Respondent may at the time of an attempted registration, contest the amount of the alleged arrearage by asserting full or partial payment.

Richmond County, Georgia, but while the decree provided for the payment of child support, it did not address the parties' rights or obligations with respect to their marital property. The Hearing Officer indicated to Respondent at the time of the hearing in Family Court that it appeared he was raising issues that should have been raised in equitable distribution and that she could not at this time go back to that point and deal with those issues. The Court does not agree with this analysis, however. Once the decree was entered, any jointly held property became owned by the parties as tenants in common, each having a 50% interest, and by transferring his interest to Petitioner without consideration, Respondent did indeed provide Petitioner and the child with something of value for which he should receive credit toward his child support. Further, with respect to the marital debts paid by Respondent after separation, to the extent those debts were joint debts, in both parties' names, by assuming Petitioner's 50% obligation, Respondent again provided Petitioner with something of value for which he should receive credit.

The Court wishes to note that the "method of payment" chosen by Respondent was certainly not the wisest, as the situation in which he now finds himself, with the difficulties of proof and the necessity for multiple hearings, will attest. The Court cannot turn a blind eye to the injustice which would result, however, if Petitioner were to collect the full amount of arrearages after having received the benefit of Respondent's efforts. The matter will thus be remanded for further hearing, at which Respondent may present evidence of the net value of the property transferred, as well as the sums paid on joint debts, for which he should receive 50% credit toward the arrearage in this matter.

ORDER

AND NOW, this 13th day of August, 2003, for the foregoing reasons, the Order of May 6, 2003 is hereby VACATED and the matter is hereby remanded to Family Court for further hearing to address any credit due Respondent for payments made as noted above.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations Section
TB
MD
Gary Weber, Esq.
Dana Jacques, Esq.
Hon. Dudley Anderson