

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

VDG,	:	NO. 00-20,108
Petitioner	:	
	:	
vs.	:	DOMESTIC RELATIONS SECTION
	:	Exceptions
TG ,	:	
Respondent	:	

OPINION AND ORDER

Before the Court are Petitioner's exceptions to the Family Court Order dated June 3, 2003 in which Respondent was directed to pay child and spousal support to Petitioner. Argument on the exceptions was heard August 6, 2003.

Petitioner's sole contention on exceptions is that the hearing officer erred in basing Respondent's support obligations on his unemployment compensation, rather than an annualized income. The hearing officer had asked Respondent to supply his 2001 federal income tax return and financial documentation with regard to 2002, and although he received the 2001 federal income tax return, he did not receive any documentation respecting 2002. He therefore based the support obligation on the unemployment compensation being received by Respondent at the time of the hearing. It appears Respondent is in the construction industry and apparently was laid off at that time. It is noted his 2001 income tax return does not show any unemployment compensation received in that year.

At argument the Court agreed with Petitioner the 2002 information should be considered. By Order dated August 6, 2003, the Court directed Respondent to provide a copy of his 2002 return upon its filing, and even allowed for an extension through October 15th for Respondent to file a return. As of this date, November 7, 2003, Respondent has failed to provide the Court with his return and as indicated in the Order of August 6, 2003, the Court will therefore calculate Respondent's obligation on an estimated gross income of \$40,000.00.

Respondent's 2001 income tax return shows 20,411 business miles used to calculate a vehicle expense, which Respondent deducted as an employee business expense on his Schedule A, itemized deductions. The Court considers 12,500 miles per year (50 miles per day for 5 days per week for 50 weeks per year) to be the average mileage traveled by a worker and therefore Respondent has an extraordinary expense related to 7,911 miles. At 36.5¢ per mile, Respondent's expense is calculated at \$2,887.00. He realizes a tax savings because of that deduction, however, of \$635.00.¹ Subtracting the savings of \$635.00 from the expense of \$2,887.00 results in an expense to be considered for purposes of child support, of \$2,252.00. Respondent's federal income tax, as noted above, is calculated at \$4,439.00. His social security and Medicare tax, based upon an annual gross income of \$40,000.00, is calculated at \$3,060.00, his state and local tax at \$1,920.00, and subtracting the vehicle expense of \$2,252.00, he has a net annual income of \$28,329.00. This results in a monthly net income of \$2,360.00. Adding the apartment consideration of \$200.00 per month provides him with a total monthly net income for purposes of child support, of \$2,560.00.

The hearing officer found Petitioner's income to be \$215.00 per week gross and calculated her net monthly income to be \$931.66. \$215.00 per week gross is \$931.66 per month gross, however. The Court will therefore recalculate Petitioner's monthly net income by estimating an annual gross income of \$11,180.00, subtracting the head of household standard deduction of \$6,900.00, and three exemptions, totaling \$9,000.00, providing her with no taxable income but, rather, an earned income credit of \$4,140.00. Her social security/Medicare tax is calculated at \$855.00 and her state and local tax at \$536.00. She therefore has a total annual net income of \$13,929.00 or \$1,160.00 per month.

Considering Petitioner's monthly net income of \$1,160.00 and Respondent's monthly net income of \$2,560.00, the guidelines suggest a payment for the support of two minor children of \$731.56 per month. Spousal support is then calculated at \$200.53 per month from March 10, 2003 through May 21, 2003, at which time Respondent also has a childcare contribution obligation. That childcare contribution is calculated at \$109.15 per month, and

¹ Respondent's federal income tax obligation without an itemized deduction, using simply the standard deduction for a single person, is calculated at \$5,074.00. His tax using an itemized vehicle expense of \$7,042.00, as shown on his 2001 federal income tax return, is \$4,439.00. He thus has a savings of \$635.00.

considering that additional obligation, Respondent's spousal support is at that time lowered to \$167.79 per month.

ORDER

AND NOW, this 12th day of November, 2003, for the foregoing reasons, Petitioner's exceptions are hereby granted and the Order dated June 3, 2003 is hereby modified such that effective March 10, 2003 Respondent's child support obligation shall be modified to a payment of \$731.56 per month and his spousal support obligation shall be modified to a payment of \$200.53 per month. Effective April 21, 2003, Respondent shall also contribute child care of \$109.15 per month and his spousal support payment shall be modified to a payment of \$167.79 per month. Further, the percentage responsibility for excess unreimbursed medical expenses shall be modified such that Petitioner shall contribute 31.18% of such and Respondent shall contribute 68.82% of such.

As modified herein, the Order of June 3, 2003 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations
Christina Dinges, Esq.
TG
Gary Weber, Esq.
Dana Jacques, Esq.
Hon. Dudley N. Anderson