

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

CK, : NO. 02-21,043  
Petitioner :  
 :  
vs. : DOMESTIC RELATIONS SECTION  
 : Reconsideration  
GEK, :  
Respondent :

OPINION AND ORDER

Before the Court is Respondent’s Petition for Reconsideration of this Court’s Order dated January 10, 2003, remanding the matter for a hearing to determine the amount of spousal support to be paid by Respondent. In support of that remand, the Court had determined Petitioner had shown adequate legal cause for leaving the residence and was therefore entitled to spousal support. Respondent asks this Court to reconsider that holding and further, contends the holding is not supported by the evidence presented in Family Court.

With respect to reconsideration of this Court’s determination that Petitioner demonstrated adequate legal cause by showing that Respondent continued to engage in extra marital friendships with women after he knew that this behavior was causing a problem in the marriage, the Court believes the holding correct and will not reconsider such.

With respect to Respondent’s contention the evidence does not support the Court’s holding, Respondent specifically argues that Petitioner only attempted to show adultery on Respondent’s part, but failed to show such and the hearing officer failed to find adultery. The Court does not agree. A review of the transcript indicates that although Respondent’s counsel may have focused on alleged adultery and may have directed the hearing officer to focus on alleged adultery, Petitioner and her counsel presented sufficient evidence of the problems Respondent’s behavior was causing in the marriage and further, that this issue was behind Petitioner’s decision to leave the marital residence.

Petitioner testified that after she learned Respondent was seeing a woman in Towanda and after Respondent admitted to Petitioner that he had been seeing this woman for lunch and had kissed her, Petitioner indicated to Respondent she was going to leave the residence but Respondent asked her to stay and work it out so they went to counseling. Petitioner further testified that with the counseling, she forgave whatever she thought had happened but then subsequently learned of his friendship with Pam Schwartz and because they had been to counseling but apparently such did not resolve the problem, she decided at that time to leave. Respondent also admitted in his testimony that he knew Petitioner had concerns about him having extra marital relationships. Specifically, on page 39, in response to the question whether he knew she had concerns about him having an extra marital relationship, Respondent replied, "yes, I guess she did". Further, on page 41, in response to an inquiry that, "knowing that your wife had concerns about your relationships with people of the opposite sex, you decided, she's not home, I'll go ahead and go over to Pam Schwartz's home," Respondent replied "sure, very poor judgment, right." Thus, contrary to Respondent's contention Petitioner attempted only to show Respondent was guilty of adultery, Petitioner did indeed attempt, and in the Court's opinion did indeed show, that Respondent's relationships with other women, under the particular circumstances of their marriage, provided adequate legal cause for her departure from the marital residence.

ORDER

AND NOW, this 15<sup>th</sup> day of April, 2003, for the foregoing reasons, Respondent's Petition for Reconsideration is hereby denied.

By the Court,

Dudley N. Anderson, Judge

cc: Family Court  
Domestic Relations Office  
Christina Dinges, Esq.  
Janice Yaw, Esq.  
Gary Weber, Esq.