

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

SKM, : NO. 97-21,416
Petitioner :
 :
vs. :
 :
GVS, JR., : Domestic Relations Section
Respondent : Exceptions

OPINION AND ORDER

Before the Court are Petitioner’s exceptions to the Family Court Order dated October 15, 2003 in which Respondent was directed to pay child support to Petitioner. Argument on the exceptions was heard December 17, 2003.

In her exceptions, Petitioner contends the hearing officer erred in failing to assess Respondent an earning capacity for the period of time from July 23, 2003, when he filed his Petition, through September 8, 2003, when he became employed. The Court agrees. The hearing officer indicated she was “unable to give him an earning capacity” for that period of time because “no testimony was elicited from Mr. S with regard to his date of birth, his health, his education and any prior employments aside from Brodart.” The hearing officer did find his income to be \$1,516.49 per month, from his new employment with Muncy Homes, where he earns \$10.40 per hour working 40 hours per week. There appears no reason why the hearing officer would not have been able to assess Respondent an earning capacity at \$10.40 per hour for the period of time from July 23 through September 8, 2003. He is obviously capable of earning such since he found employment at that rate and had worked at Brodart’s earning more than that. The Court will therefore provide for a payment of support during that period of time

based upon his income from Muncy Homes, assessing such as an earning capacity.¹

ORDER

AND NOW, this 22nd day of December, 2003, for the foregoing reasons, the Order of October 15, 2003 is hereby modified with respect to the effective date such that rather than effective September 9, 2003, the payment provided for therein shall be effective July 23, 2003.

As modified herein, the Order of October 15, 2003 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations Office
Rita Alexyn, Esq.
Joy McCoy, Esq.
Dana Jacques, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson

¹ The Court notes Respondent had been receiving unemployment compensation for at least six months and thus had a reasonable time in which to find employment before being assessed with an earning capacity.