

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

FMO, : NO. 02-21,512
Petitioner :
: vs. : DOMESTIC RELATIONS SECTION
: Exceptions
RSO, :
Respondent :

OPINION AND ORDER

Before the Court are cross-exceptions to the Family Court Order dated February 5, 2003, in which Respondent was directed to pay spousal support to Petitioner. Argument on the exceptions was heard March 26, 2003.

In his exceptions, Respondent contends the hearing officer erred in determining his monthly net income, in failing to deviate from the support guidelines based upon the length of the marriage, and in entering a prospective support Order. In her exceptions, Petitioner contends the hearing officer erred in awarding certain credits.

With respect to Respondent’s monthly net income, Respondent specifically contends that bonuses should not have been included because he may not receive them in the future. Inasmuch as he did receive them, however, the guidelines require their inclusion in his monthly net income. If indeed he does not receive them in the future, and such represents a substantial change in his income, he may petition to modify the support Order.

With respect to the hearing officer’s failure to deviate based upon the length of the marriage, it appears the parties were married three years. While the Court finds no bright line where deviation becomes appropriate, in the instant case, a marriage of three years, the Court finds no error in the hearing officer’s failure to deviate from the guidelines.

With respect to the prospective Order of support, the hearing officer took note of

Respondent's anticipated termination of severance pay from his prior employment with Alcan Cable and entered a two-tiered Order. The Court finds no error in this regard and although Respondent is concerned he may be prejudiced from seeking modification in the future, the Court will add language to the hearing officer's Order to indicate that if other circumstances change, Respondent shall not be prejudiced to seek modification.

With respect to the credits awarded Respondent against the spousal support award, inasmuch as such are for Petitioner's living expenses, mortgage payments, insurance and car payments, the Court finds no error in such credits.

ORDER

AND NOW, this 1st day of April, 2003, for the foregoing reasons, Petitioner's exceptions are hereby denied and Respondent's exceptions are denied in part and granted in part. The Order of February 5, 2003 is modified to provide that the requirement Respondent pay spousal support of \$999.97 per month commencing on January 1, 2004 continue in effect until or unless modified based upon other substantial and continuing change in circumstance which was not addressed at the time of the Order of February 5, 2003. Respondent shall not be prejudiced in any way by entry of the prospective Order and may file a petition for modification based upon any substantial and continuing change in circumstances.

As modified herein, the Order of February 5, 2003 is hereby affirmed.

By the Court,

Dudley N. Anderson

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