

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

DMP,	:	NO. 02-20,741
Petitioner	:	
	:	
vs.	:	DOMESTIC RELATIONS SECTION
	:	Exceptions
JMP,	:	
Respondent	:	

OPINION AND ORDER

Before the Court are Respondent's exceptions to the Family Court Order dated April 21, 2003, in which Respondent was directed to pay child and spousal support to Petitioner. Argument on the exceptions was heard June 4, 2003, at which time Respondent requested the preparation of a transcript. That transcript was prepared and provided to the Court on or about September 10, 2003.

In his exceptions, Respondent contends the hearing officer erred in assessing Respondent an earning capacity based on prior employment, and in admitting into evidence certain documents, overruling Respondent's objection to the hearsay nature of such.

With respect to the documents admitted into evidence to which Respondent objects, specifically Respondent is referring to Plaintiff's Exhibit #1, a two-page document consisting of a letter from Respondent's former employer, Sylvin Technologies, dated March 28, 2003, indicating that Respondent was terminated on January 4, 2003 and referring the reader to an attached disciplinary action form. The second page of that exhibit is entitled Sylvin Technologies Disciplinary Action Form and indicates that Respondent was terminated, provides a narrative to justify the termination and is signed by Respondent as well as his supervisor. In the section of the form where Respondent was to have indicated receipt, understanding and either agreement or disagreement with the narrative, someone has written "associate refused". At the hearing in Family Court, Respondent acknowledged receipt of the

disciplinary action form and indicated that it was his signature on the form. Plaintiff's counsel moved for admission of the document pursuant to the hearsay exception outlined in 23 Pa. C.S. Section 4342 (f). The document was properly admitted under this exception.

With respect to assessment of an earning capacity, the hearing officer considered Respondent's testimony that the allegations made by his employer were untrue and that he was terminated due to "downsizing", and also considered evidence introduced by Plaintiff that he was terminated for willful misconduct. After a review of testimony and documents, the Court finds no reason to disturb the hearing officer's credibility determination. The earning capacity was therefore properly assessed.

ORDER

AND NOW, this 17th day of September, 2003, for the foregoing reasons, Respondent's exceptions are hereby denied and the Order of April 21, 2003 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations
Janice Yaw, Esq.
Michael Morrone, Esq.
Gary Weber, Esq.
Dana Jacques, Esq.
Hon. Dudley N. Anderson