

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

|            |   |                                 |
|------------|---|---------------------------------|
| M(S)C,     | : | NO. 03-21,313                   |
| Petitioner | : |                                 |
|            | : |                                 |
| vs.        | : |                                 |
|            | : |                                 |
| JVS,       | : | Domestic Relations Section      |
| Respondent | : | Petition to Assume Jurisdiction |

OPINION AND ORDER

Before the Court is Petitioner's Petition to Assume Jurisdiction and to Enforce Agreement, filed October 7, 2003. Argument before the Honorable Clinton W. Smith was heard November 17, 2003.

On May 15, 1997, the parties entered into an agreement which addressed, among other things, Respondent's child support obligation to Petitioner. By Order dated December 3, 1997, the Court of Common Pleas of Allegheny County recognized that agreement, discontinued payments of support through the Allegheny County collections and disbursements office, and retained jurisdiction for enforcement and collection purposes only. On September 8, 2003, Petitioner filed a Complaint for Support in the Domestic Relations Office in Lycoming County, requesting "Enforcement of Private Child Support Agreement – Order done in Allegheny County." The following day an Order was entered which provided that "at the request of the Plaintiff, the parties' Settlement Agreement dated May 15, 1997 shall be administered and enforced by the Domestic Relations Office." Respondent was directed to make all future child support payments directly to the Pennsylvania State Collections and Disbursement Unit. It is noted that pursuant to the agreement dated May 15, 1997, payments were made by Respondent directly to Petitioner.

Also on or about September 9, 2003, Respondent filed a Petition to Modify child support in the Court of Common Pleas of Allegheny County. That matter is pending; a hearing is currently scheduled for January 14, 2004. In the instant Petition to Assume Jurisdiction and to Enforce Agreement, Petitioner asks this Court to transfer jurisdiction of Respondent's Request for Modification from Allegheny County to Lycoming County and to order

Respondent to comply with the terms of the May 15, 1997 agreement. It appears, however, that Allegheny County continues to have exclusive jurisdiction over this support matter and in spite of this Court's Order entered September 9, 2003, jurisdiction remains in Allegheny County.

Pursuant to Section 8201 of the Intrastate Family Support Act, "a tribunal issuing a support Order has continuing, exclusive jurisdiction over a support Order unless otherwise provided by Part VIII (relating to uniform Interstate Family Support) or this part." 23 Pa.C.S. Section 8201 (a). Since Allegheny County issued a support Order in this matter, Allegheny County has continuing, exclusive jurisdiction over that support Order. There are no other circumstances, as referred to in Section 8201 (a), which would indicate otherwise. With respect to this Court's Order dated September 9, 2003,<sup>1</sup> the entry of a second Order is governed by Section 8202, specifically subsection (a) (1), which provides "if two or more tribunals have issued support Orders for the same obligation and only one of the tribunals would have continuing, exclusive jurisdiction under this part, the Order of that tribunal must be recognized." 23 Pa.C.S. Section 8202 (a)(1). Further, Subsection (b) of that section indicates "the tribunal that has issued an Order recognized under Subsection (a) is the tribunal having continuing, exclusive jurisdiction." Thus, even though this Court issued an Order, Allegheny County continues to have continuing, exclusive jurisdiction.

Petitioner makes much of the fact that Respondent failed to request a hearing after the Order dated September 9, 2003 was entered.<sup>2</sup> Petitioner cites Commonwealth ex rel. Cook v Cook, 449 A.2d 577 (Pa. Super. 1982), in support of the proposition that even if a Court lacked subject matter jurisdiction, once an Order was entered and no appeal taken, the matter of subject matter jurisdiction is res judicata as to those particular litigants. In the instant matter, however, this Court is not revisiting the issue of subject matter jurisdiction and is not vacating its Order of September 9, 2003. Rather, the Court is simply recognizing Allegheny County as the forum with continuing exclusive jurisdiction over this support matter, pursuant to the

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<sup>1</sup> The Court wishes to note the Order dated September 9, 2003 was an Administrative Order, prepared by the Domestic Relations Office and signed by the undersigned without review of the circumstances. At the time of signing said Order, the Court understood the parties to be in agreement with the Lycoming County Domestic Relations Office administering the matter. Because there was actually no agreement to that effect, the proper procedure would have been to either forward the Complaint for Support to the Domestic Relations Office in Allegheny County, or to require Petitioner to follow the registration procedures set out in the Intrastate Family Support Act.

<sup>2</sup> The Order dated September 9, 2003 indicates that should either party disagree with the determination contained therein, he or she has a right to file a written request for a hearing before Family Court, which must be received in the Domestic Relations Office within twenty (20) days of receipt of the Order.

Intrastate Family Support Act.

ORDER

AND NOW, this        day of December, 2003, for the foregoing reasons, Petitioner's Petition to Assume Jurisdiction and to Enforce Agreement is hereby DENIED. This Court's Order dated September 9, 2003 is hereby suspended effective this date.

By the Court,

Dudley N. Anderson, Judge

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      Hon. Dudley N. Anderson