

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

|                                |   |                |                  |
|--------------------------------|---|----------------|------------------|
| <b>BARBARA L. WATTS,</b>       | : |                |                  |
| <b>Petitioner/Plaintiff</b>    | : |                |                  |
|                                | : | <b>PACSES:</b> | <b>246101296</b> |
| <b>v.</b>                      | : |                |                  |
|                                | : | <b>NO:</b>     | <b>94-20,737</b> |
|                                | : |                |                  |
| <b>LAWRENCE L. WATTS, SR.,</b> | : |                |                  |
| <b>Respondent/Defendant</b>    | : |                |                  |

**OPINION AND ORDER**

Before the Court are exceptions filed by Lawrence L. Watts, Sr. to the Order of the Family Court Hearing Officer dated October 10, 2002 in the above captioned case. He asserts that the Family Court Hearing Officer erred when he failed to assess the proper earning capacity to Mrs. Watts, awarded spousal support to Mrs. Watts, determined that Mr. Watts' lump sum worker's compensation settlement was income, prorated the lump sum worker's compensation settlement over twelve months instead of seventy (70) weeks and then used these erroneous figures to determine Mr. Watts' child support and spousal support obligation for the period of September 6, 2002 through September 5, 2003. Mrs. Watts also files a cross-exception, alleging that the Family Court Hearing Officer erred by assessing Mrs. Watts an earning capacity instead of utilizing her Unemployment Compensation Benefits.

After hearing in this matter, this Court makes the following findings:

## **EARNING CAPACITY**

Mrs. Watts was properly assessed an earning capacity of \$1,068.32 per month. There is no information in the transcript that Mrs. Watts is employed on a part-time basis or that part-time wages were used to calculate her earning capacity. Although there is mention that Mrs. Watts at some point earned an income of \$10.00 per hour, Transcript of Proceedings before Gerald W. Seevers on October 8, 2002, p. 14, there is no evidence on the record as to when that might have been, nor is there any evidence on the record, despite Mr. Watts' allegation to the contrary, that Mrs. Watts was working less than full time when her employment with Dr. Stryker ended in June of 2002. Additionally, this Court finds no error with the Family Court Hearing Officer's decision to assess Mrs. Watts with an earning capacity based upon her 2001 tax return rather than using her 2002 unemployment income. In reviewing the wife's cross-exception, this Court declines to accept the argument of Mrs. Watts that her income should have been determined based upon her unemployment income and not her 2001 tax return. Mrs. Watts testified in Family Court that she has the ability to earn \$10.00 per hour, Id., that she has no health or medical problems which would prevent her from being employed on a full time basis, Id., at p. 13, and that she was terminated from her prior position with the Susquehanna Health System for cause, Id., at p. 10 – 11, making it much more difficult for her to obtain employment now.

### **SPOUSAL SUPPORT**

The Court finds that the Family Court Hearing Officer properly awarded spousal support to Mrs. Watts. The transcript of the testimony shows that the parties both agreed that it was time for their marriage to end and although Mrs. Watts requested that Mr. Watts leave the residence, he agreed that it was time that he should. Additionally, Mr. Watts agreed during the testimony that the parties had had numerous physical altercations in the past, some of them in the presence of the parties' children. He admitted to verbal and physical abuse of Mrs. Watts during the marriage, perhaps caused by a drinking problem. Mrs. Watts denied involvement in physical confrontation with Mr. Watts except on one occasion when she called the police. In these circumstances, the award of spousal support will not be disturbed.

### **WORKER'S COMPENSATION SETTLEMENT**

Mr. Watts' lump sum worker's compensation settlement payment is income as defined under 23 Pa.C.S.A. Section 4302 and was properly considered in determining the appropriate amounts of child and spousal support to be awarded. In addition, the Family Court Hearing Officer properly prorated the lump sum payment to Mr. Watts over a period of 12 months. The lump sum payment was not a settlement for lost wages over a period of seventy weeks. According to the transcript, Mr. Watts continued to receive his regular wages during the five week period that he was unable to work because of his injury. Instead, the lump sum payment was to compensate Mr. Watts for his injury. Consequently, it was appropriately prorated over a period of one year.

Based on the foregoing findings, it is clear that the Family Court Hearing Officer correctly determined the Respondent, Mr. Watts', net monthly income to be \$3723.88 for the period of September 6, 2002 through September 5, 2003, and \$1,793.05 beginning September 6, 2003. The net monthly income of Mrs. Watts was correctly determined as \$1,438.40.

**ORDER**

Accordingly, it is ORDERED and DIRECTED that the exceptions filed by the Defendant and the cross-exceptions filed by the plaintiff in the above captioned case are dismissed.

By the Court,

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Nancy L. Butts, Judge J.

xc: J. Yaw, Esquire  
W. Miele, Esquire  
Gerald Seevers, Family Court Hearing Officer  
Domestic Relations