

ADRIAN A. HARRY, : IN THE COURT OF COMMON PLEAS OF
 : LYCOMING COUNTY, PENNSYLVANIA
 Plaintiff :
 :
 vs. : NO. 03-21,759
 : PACES NO. 225104246
 MICHELLE D. HARRY, :
 :
 Defendant : SUPPORT ORDER

Date: August 10, 2004

OPINION and ORDER

The Exceptions in this case filed by Mother, Michelle Harry, to the Master's child support Order of March 4, 2004 address the unusual situation where the child spends 50% of his time at the Milton Hershey School, which is an all-expenses paid boarding school. The Master, in calculating the actual number of days out of the year that the child is at the school and with Mother and Father, came to an accurate conclusion that Mother has care of the child for 112 days and Father has care of the child for 98 days.

On that basis, the Master found that since Mother had the child only 27% of the time the child support obligation of Father, Adrian Harry, should be decreased by 3% and reduced the child support amount of \$613.93 to \$165 per month. In doing so, the Master applied the typical shared custody support variation in accordance with Pa. R.C.P. 1910.16-4(c). The Court believes to do so on such a strict basis to be inappropriate. However, the Court does believe that an adjustment is warranted to avoid a windfall to Mother since the child is in an all expenses paid boarding school for such a significant portion of the year. An adjustment would also give appropriate recognition to Father's financial status given that the child qualified for the school.

The Court believes that a fair and appropriate reduction in the amount of child support should be to reduce the child support amount by 50%, which would relate to the expenses being provided by the Milton Hershey School. The Court notes that Mother has the same on-going expenses of providing a suitable and appropriate home for the child during the period of time the child is with her. What is cut back is her need for paying the school expenses that includes housing, meals, clothing and all medical expenses. The Court believes that it is not at all unreasonable to conclude that a significant amount of the child support payment would normally be used to supply the things being supplied by the Milton Hershey School. At the same time, the Court recognizes that a sizable portion of the child support payment would also be needed to provide housing and other subsistence items that the Milton Hershey School would not supply and Mother would have to.

Therefore, the Support obligation shall be calculated as follows:

$$\$613.93 \times .50 = \$306.97$$

Father was given a credit of \$10.83 for the health insurance payments. This results in a total child support obligation of

$$\mathbf{\$296.14} \quad (\$306.97 - \$10.83 = \$296.14).$$

The effective date of the new support obligation shall be March 8, 2004, the date the Exceptions were filed. The increased support obligation will likely result in an arrearage, for which the Father is responsible.

As to the other exceptions, the Court believes that the Master appropriately assigned a fair earning capacity to Mother for the reasons noted in Master's Report. The Court believes that the Master did not err in awarding alimony pendente lite for only one year. The

Court believes that the Master accurately took into account the marriage situation in referencing that it was a “short-term marriage” and the Court also believes that the awarding of APL for a period of one year as found by the Master is supported by appropriate documents in evidence. Accordingly the following Order will be entered.

ORDER

It is hereby ORDERED that the Exceptions of Defendant Michelle Harry are GRANTED IN PART and DENIED IN PART.

The Exceptions are granted insofar as the Master erred in reducing the child support obligation of the Plaintiff Adrian Harry to \$165.00. The support obligation shall instead be reduced by 50%. Adrian Harry’s child support obligation will then be **\$296.14 per month**.

The \$296.14 per month support obligation shall be deemed effective as of March 8, 2004.

The Lycoming County Domestic Relations Office shall calculate the arrearage that has resulted from the increase in the support obligation and notify Adrian Harry of the amount.

Adrian Harry shall pay \$100 per month towards any arrearage.

The Exceptions are DENIED in all other respects.

BY THE COURT:

William S. Kieser, Judge

cc: Sean Roman, Esquire
Janice R. Yaw, Esquire
Domestic Relations
Judges
Christian J. Kalas, Esquire
Gary L. Weber, Esquire (Lycoming Reporter)