

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA

A.M.,	:	
Petitioner/Plaintiff	:	
	:	
v.	:	No. 03-21,436
	:	PACES NO. 861105844
D.M.,	:	
Respondent/Defendant	:	
	:	
D.M.,	:	No. 03-21,552
Petitioner/Plaintiff	:	PACES NO. 011105894
	:	
v.	:	
	:	
A.M.,	:	
Respondent/Defendant	:	

OPINION and ORDER

This opinion addresses the Exceptions filed by Father to the Master’s order of February 2, 2004, assessing him with a child support obligation.

Father’s exceptions relate to his assessment of an earning capacity of \$1152.00 per month. The Master arrived at that figure by averaging the income of a Motor Vehicle Operator/Other and a Truck Driver/Lite Delivery Service for this area, as listed by the Department of Labor and Industry.

Father’s occupation is selling goods at flea markets. His last steady job was at International Paper, where he operated machinery. That job ended in 1997, when Father sustained a work-related injury in which he lost a thumb. Father testified that the injury resulted in permanent damage to his hand. Father further testified that he is on pain medication, and that he has trouble driving. He maintained that although he must drive long distance to flea markets, he has someone present to share the driving because he cannot drive for long periods of time. Father further maintained he is disabled due to

his health problems, primarily his hand injury and a back injury he sustained from a car accident in 1992.

The court agrees with the Master that the evidence submitted does not support a finding of disability, for there appears to be no reason Father cannot be gainfully employed on a full time basis. The court further agrees that it would be inappropriate to use Father's income from his flea market business to determine child support, as that income is suspiciously low and at any event, his tax return shows the business resulted in a financial loss. However, the occupational assessment the Master chose appears to be somewhat arbitrary and higher than is realistic for Father to earn given his age (42), the problem with his hand, his spotty work history for the past several years (no steady job since 1997), and his level of education (ninth grade). Therefore, the court will assess him a minimum wage earning capacity of \$750 per month. Child support is therefore recalculated to be \$99.23 per month.

ORDER

AND NOW, this _____ day of June, 2004, for the reasons stated in the foregoing opinion, Father's Exceptions are granted and it is ordered that:

1. Father's child support obligation shall be \$99.23 per month.
2. Father's proportionate share of the health insurance premium is 35.13%, or \$37.69 per month.
3. In all other respects, the Master's order of April 7, 2004 is affirmed.

BY THE COURT,

Richard A. Gray, J.

cc: Dana Jacques, Esq., Law Clerk
Hon. Richard A. Gray
Plaintiff
Defendant
Domestic Relations (RW)
Family Court
Gary Weber, Esq.