

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA

K.S.,	:	
Plaintiff	:	
	:	
v.	:	No. 03-21,508; 03-21,568
	:	PACES NO. 966105878
M.S.,	:	
Defendant	:	

OPINION and ORDER

This opinion addresses the Exceptions filed by Father to the Master's order of December 16, 2003, in which Father was ordered to pay child support and spousal support to Mother. Father objects to the Master's finding regarding Mother's earning capacity and to the Master's computation of Father's income.

Regarding Mother's earning capacity, Mother works as a part-time custodian at the Pleasant View Wesleyan Church, working eight hours a week and earning \$80.00 per week gross. The Master assessed her an earning capacity midway between the average salary for a janitor (\$7.86) and the average salary for a maid or other individual working in housekeeping at various establishments (\$6.50 per hour), to arrive at an hourly wage of \$7.18. The Master also assessed her at thirty hours per week, for a gross monthly income of \$933.40. The Master then reduced her gross income by 11.45% to cover taxes other than federal. The Master assumed she would pay no federal income tax, given such a low income.

Father claims Mother should be assessed at \$10 per hour, for a forty-hour per week job. The court does not agree, as there was no evidence to support the proposition that Mother would be able to obtain such work. Her present position of working for the church at \$10 per hour is obviously a special situation, and it is unlikely she would be able to obtain a full-time job working at that rate.

Although it appears Mother is a classic case of a forty-hour per week, minimum wage earner¹, Mother did not file exceptions, and therefore the court will not disturb the Master's assessment.

Regarding Father's income, the Master calculated the income from a pay stub. Since the hearing, Father has received a W-2 form. In comparing the two documents, it appears the pay stub reflected elevated income during the period covering the pay stub, and therefore the total was not representative of Father's usual compensation. Because the fairer approach is to use the W-2 form, the court grants Husband's motion to re-open the record, and the court will use the W-2 form to recalculate Husband's income. Starting with the figure of \$59,392.14 and subtracting applicable taxes (federal, state, local, medicare, social security) along with \$772.00 for mandatory retirement and \$280 for union dues, Husband's income is \$43,436.22 per year, or \$3619.68 per month.

Based upon Mother having a net monthly earning capacity of \$826.53 and Father having a monthly income of \$3619.68, the total income of the parties is \$4446.21. The base child support for both parents for two minor children is \$1225 per month. Father's proportionate share of the total income is 81.41%, which translates to a child support obligation of \$997.27 per month. Health insurance, provided by Father, cost \$227.97 per month in 2003, and increased to \$249.57 per month in 2004. Mother's proportionate share of the health insurance is 18.59%, or \$42.38 per month for 2003 and \$46.40 per month for 2004. APL is calculated to be \$551.48 per month in 2003 and \$552.68 per month in 2004. Father's total support is therefore \$1506.35 per month in 2003 and \$1503.55 per month in 2004.

¹ Mother, who is forty-three, began working at her current job on October 19, 2002. Her last job before that was working full-time at a casino. She began working part-time at the casino after her first child was born, on January 1, 1991, and stopped working altogether in 1992.

ORDER

AND NOW, this _____ day of February, 2004, for the reasons stated in the foregoing opinion, Husband's Exception #1 is dismissed and Husband's Exception #2 is granted, and it is ordered as follows:

1. Father's child support obligation: \$997.27 per month.
2. Mother's health insurance obligation: \$42.38 per month for 2003 and \$46.40 per month for 2004.
3. Father's APL obligation: \$551.48 per month for 2003 and \$552.68 per month for 2004.
4. In all other respects, the Master's order of December 16, 2003 is affirmed.

BY THE COURT,

Richard A. Gray, J.

cc: Dana Jacques, Esq., Law Clerk
Hon. Richard A. Gray
Janice Yaw, Esq.
Howard Langdon, Esq.
Domestic Relations (SMF)
Family Court
Gary Weber, Esq.