

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

CFC, : NO. 03-20,665
Petitioner :
: vs. : DOMESTIC RELATIONS SECTION
: Exceptions
LAC, :
Respondent :

OPINION AND ORDER

Before the Court are cross-exceptions to the Family Court Order dated November 24, 2003, as amended by Order dated December 2, 2003, in which Respondent was directed to pay spousal support and contribute to certain medical expenses of Petitioner. Argument on the exceptions was heard January 21, 2004.

In his exceptions, Petitioner contends the hearing officer erred in failing to require Respondent to contribute to certain medical bills. In her exceptions, Respondent contends the hearing officer erred in calculating Petitioner’s income by using 2002 figures rather than 2003 figures, in failing to deviate based upon Petitioner’s separate estate, in ordering contribution to a dental bill, and in failing to consider evidence of Petitioner’s separate estate. As the Court has determined that the hearing officer erred in calculating Petitioner’s income and as a result of the recalculation made by the Court, Petitioner has a higher income than does Respondent, the remaining exceptions will not be addressed.

In calculating Petitioner’s actual federal tax liability, the hearing officer filled out a tax return, which considered Petitioner’s income only, without considering the effect of adding in Respondent’s income. She determined his federal income tax liability to be \$2,134.00. She then deducted this tax liability, as well as his state and local tax liability, from the taxable income shown on the return. To this taxable income must be added the tax-exempt interest income of \$888.00. While the hearing officer also correctly added the non-taxable social

security and non-taxable disability received by Petitioner, then added back depreciation for a rental property, she went on to deduct the tax liability of the parties when they filed a joint tax return, which was based upon the effect Respondent's income had on the total tax liability, as well as contained a portion owed by Respondent on her income. The hearing officer therefore deducted federal income taxes twice for Petitioner and also included Respondent's tax obligation in the calculation. This is inappropriate and when one considers Petitioner's tax liability only, even considering the 2002 figures rather than the 2003 figures, Petitioner's income is calculated at \$3,255.00 per month, which exceeds Respondent's income, determined to be \$3,101.00 per month. An award of spousal support is thus inappropriate. Without an award of spousal support, any contribution to health insurance or medical expenses is also inappropriate.

ORDER

AND NOW, this 27th day of January, 2004, for the foregoing reasons, Respondent's exceptions are hereby granted in part and the Order dated November 24, 2003, as amended by Order dated December 2, 2003, is hereby vacated. Petitioner's request for spousal support is hereby DENIED. Any sums paid by Respondent pursuant to the Order dated November 24, 2003, as amended by Order dated December 2, 2003, shall be returned directly to Respondent within 30 days of this date. Within 10 days of this date, Respondent shall, through counsel, provide an itemized list of such sums, including payments for health insurance.

By the Court,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations
Brad Hillman, Esq.
Janice Yaw, Esq.
Gary Weber, Esq.
Dana Jacques, Esq.
Hon. Dudley N. Anderson