

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA

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|--------------------|---|---------------|
| STEPHEN G. WINTON | : | |
| Plaintiff | : | |
| V. | : | NO. 96-20,182 |
| VICTORIA ANN NEELY | : | |
| Defendant | : | |
| | : | |

OPINION AND ORDER

This custody matter is before the court for determination of whether the children of Victoria Ann Neely and Stephen G.. Winton shall be home schooled or attend, Loyalsock Township public schools. The parents, Dr. Stephen Winton and Victoria Ann Neely, share legal custody of their children, Kyle Winton, born August 5, 1991, and Colleen Winton, born November 16, 1992, with the Mother having primary physical custody and the Father having partial physical custody. Mother wants to home school the children and has in fact home schooled the children for the 2003-2004 academic year. Father strongly objects and wants the children to attend public school as they had in previous years.

The concept of shared legal custody allows both parents input into the major decisions in their children’s lives. Hill v. Hill, 422 Pa. Super 533, 619 A2nd 1086 (1993). When they cannot agree, the court will settle disputes between the parents. See In re Wesley J. K., 299 Pa. Super 504, 445 A2nd 1243, 1249 (1982). The court has not found nor have the parties cited any Pennsylvania case law providing specific guidance on the topic of home schooling versus public schooling. The fundamental issue in all custody cases is the best interest of the children. Tripathi v. Tripathi, 2001 Pa. Super 322, 787 A.2nd 436 (2001). Both parents in this case are very involved, caring parents with the best interest of their children at heart. The elementary guidance counselor from Donald E. Schick Elementary School indicated that both parents were

active and visible in their children's education during their attendance at public school. Mother accommodated the children's request to have home schooling, and mother believes she knows best how her children learn. Father, on the other hand, believes that the children should be exposed to the "real world" environment of the public school and believes that the children would be too isolated from other students and the competition that exists in school and society as a whole. In short, Father feels that his children would be best prepared for their future life by the more "normal" interaction which would occur during a public school education.

After hearing all of the testimony, and reviewing various documents including the portfolios and the evaluations of the children's educational program, the court finds it to be in the best interest of the Winton children to continue to be home schooled under their Mother's direction. The court is impressed with the Mother's dedication to the education process and the way she has done "her homework" in preparing and arranging a curriculum which provides the children with instruction, field trips, enrichment classes, as well as social interaction. The children both emphasized the individual attention that they were receiving in their education and their ability to work at their own speed. The court finds this to be very positive.

Two different evaluators testified to the superior education program that was provided by Mother. The children's grandmother, a retired public school teacher, noted that the children were relaxed and thriving under this program, and the children were very good at following their schedule and working independently on their own goals. This court after interviewing the children found them to be very mature for their age and although they did repeat some words that sounded like their Mother's testimony, there is no question that they are enthusiastic about their education and excited about learning. In conclusion, the court finds that the home

schooling should continue because the program provided is a quality program, the children are thriving, and they are enthusiastic about learning.

It is well settled in Pennsylvania that custody matters between contending parents are to be decided on the basis of the judicially determined best interest of the children on a case by case basis, considering all factors that would legitimately impact upon the child's physical, intellectual, moral and spiritual well being. Zummo v. Zummo, 394 Pa. Super 30, 574 A.2nd 1130 (1990). Based upon the standard noted above, the court finds that the best interest of Kyle and Colleen favors their attendance at home schooling under their Mother's direction.

The court stresses that this case in no way represents an endorsement of home schooling over public schooling. In fact, the court does have reservations regarding continuing home schooling during the high school years. The court shares father's view that competing for and achieving high grades is important in the preparation for college and life and this certainly cannot be discounted. Also, during the high school years, such subjects as foreign languages, physics and chemistry are commonly studied and the need for teachers with specialized knowledge becomes more important than it is during middle school years.

ORDER

AND NOW, this _____ day of July, 2004, the Petition of the Father to return the children, Kyle Winton and Colleen Winton, to public school is **DENIED**. Mother may continue to home school the children through their middle school years. When the children reach high school age, they shall be returned to the public school in the absence of agreement by the parents or further Order of Court.

BY THE COURT,

Richard A. Gray, Judge

C: Marc Drier, Esquire
Joy McCoy, Esquire