

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA

M.W.,	:	
Plaintiff	:	
	:	
v.	:	No. 03-20,905
	:	PACES NO. 117105575
W.W.,	:	
Defendant	:	

OPINION and ORDER

The question before the court is how spousal support and alimony pendente lite should be calculated when the parties have a divided or split custody arrangement, with one or more children residing with each party.

This situation is governed by Rule 1910.16-4(d)(2), which states that the court should “offset the obligor’s spousal and child support obligation with the obligee’s child support obligation and award the net difference to the obligee as spousal and child support.” The example given by the rule clearly shows that in calculating the obligor’s spousal support obligation, the total child support obligation Husband owes to Wife for the four children in her custody should be deducted.¹ This does *not* include the offset Wife pays to Husband for the child in his custody, as the Master assumed.

The logic of this method escapes the court. If the amount of child support Husband is paying should be deducted from his income in figuring APL, the court does not understand why the amount of child support Wife is paying to Husband should not be deducted from her income. However, the example given by the rule is clear, and the court cannot disregard the rule.

The correct way to calculate alimony pendente lite in this situation then, is as follows. Start with Husband’s income of \$3880.79, subtract Husband’s child support

¹ This includes the health insurance premium allocation and other additional expenses, as set forth in Rule 1910.16-4(a) Part IV, line 20.

obligation of \$1243.47, subtract Wife's obligation to Husband of \$50.16 for health insurance, subtract Wife's income of \$3226.04, and award 30% of the difference as APL. Wife is therefore entitled to zero APL.

Once APL has been calculated, Wife's child support obligation to Husband is subtracted from Husband's total APL and child support obligation to Wife, to arrive a final figure payable to Wife.

ORDER

AND NOW, this _____ day of February, 2005, for the reasons stated in the foregoing opinion, Father's exception #1 is dismissed and his exception #2 is granted. It is therefore ordered that Husband owes zero APL, and the Master's amended order of November 17, 2004 is vacated. The Master's order of November 1, 2004 is affirmed.

BY THE COURT,

Richard A. Gray, J.

cc: Dana Jacques, Esq., Law Clerk
Hon. Richard A. Gray
Joy McCoy, Esq.
Randi Dincher, Esq.
Domestic Relations (SF)
Family Court
Gary Weber, Esq.