

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

A.M.S.,	:	
Petitioner/Plaintiff	:	
	:	
v.	:	No. 99-20,453
	:	PACSES No. 422100900
L.L.S.,	:	DOMESTIC RELATIONS SECTION
Respondent/Defendant	:	

OPINION AND ORDER

Before this Honorable Court, is the Respondent/Defendant's November 22, 2005 Exceptions filed to the Family Court Hearing Officer's Order of November 17, 2005. He asserts that, in light of the child's age, the child's failure to graduate high school at the scheduled time, and the child's ability to sustain himself, the Family Court Hearing Officer erred in failing to conclude the child is emancipated, thereby eliminating his support obligations.

Background

The Petitioner/Plaintiff is the primary physical custodian of the child (born August 24, 1987). In early 2004, the Petitioner/Plaintiff removed the child, then a freshman, from the Jersey Area High School, after an incident in which the child was punished for going "off task" during computer instruction, and enrolled him at the Walnut Street Christian School. In January 2005, the child was expelled from the Walnut Street Christian School for threatening another student. At that time, the Petitioner/Plaintiff began home schooling her son through the Jersey Shore Area School District.

Dr. Robert L. Conroy, the Assistant Superintendent for the Jersey Shore School District, testified at the November 10, 2005 hearing on this matter regarding the child's failure, at that time, to complete the necessary work, within the required deadline, even after being granted an extension. Dr. Conroy further testified that, the child would not be receiving a diploma from the

Jersey Shore Area School District even if he completed the required home schooling work. Kathy L. Gotschall, the Principal at Walnut Street Christian School, and the supervisor teacher for the child's home schooling work, testified at the hearing that, Walnut Street Christian School would also not be awarding the child a diploma irrespective of him completing the required course work.

At the November 10, 2005 hearing on this matter, the Petitioner/Plaintiff related to the Family Court Hearing Officer that, the child is suffering from depression and Attention Deficit Disorder. She further testified that the child was hospitalized twice for his depression and is currently in an out-patient counseling program. She also stated that, the child takes prescription medication for both of his ailments. Finally, the Petitioner/Plaintiff testified that, the child received a welding certificate from the Jersey Shore Adult Program in the summer of 2005, an EMT training certificate, and that he is currently a volunteer junior fire company member.

The Family Court Hearing Officer, based on statutory and case law, and in light of the forgoing testimony, failed to find that the child was emancipated and continued the Respondent/Defendant's support obligations, presumably until the child graduates from high school or until further order of court¹.

Discussion

A parent is liable for the support of their unemancipated minor children until the children reach the age of majority or graduate from high school, whichever occurs later. Pa.C.S.A. § 4321 and *Blue v. Blue*, 532 Pa. 521, 529, 616 A.2d 628, 633 (1992).

¹ Generally, child support obligations continue until the child reaches the age of majority or graduates from high school, whichever happens later, or earlier if the child is declared emancipated. Since the child reached the age of majority on August 24, 2005 and the Officer did not find him to be emancipated, the Court must presume that the Officer intended the Respondent/Defendant's obligation to continue until the child graduates from high school.

“Emancipation of a child, for purposes of the statute governing a parent's liability for support of a child, is a question of fact to be determined by the totality of the circumstances presented in each case.” *Nicholason v. Follweiler*, 1999 PA Super 194, P7, 735 A.2d 1275, 1278 (1999) citing, *Geiger v. Rouse*, 715 A.2d 454, 458 (Pa. Super. 1998). The child’s age, martial status, ability to support him/herself, desire to live independently, presence and extent of health or mental disabilities, whether or not the child still lives with his/her parent(s), and the child’s education status are all factors, though not exclusive factors, for the court to consider when determining whether a child is emancipated for purposes of ordering, continuing, or eliminating child support. *Nicholason*, 1999 PA Super 194, 735 A.2d 1275, (1999); *Berks County Children & Youth Servs. v. Rowan*, 428 Pa. Super. 448, 631 A.2d 615 (1993); *Trosky v. Mann*, 398 Pa.Super. 369, 581 A.2d 177 (1990); and *Maurer v. Maurer*, 382 Pa. Super. 468, 555 A.2d 1294 (1989).

Instantly, the child reached the age of majority on August 24, 2005, is unmarried, and resides with his mother. There is no indication that either the child or his mother desires he be emancipated; nor is there any indication that the child suffers from any mental or physical disabilities that would impede his ability to support himself. Although the child is characterized as a high school student, he has failed to complete the required course work and is not enrolled in any program from which he could receive a high school diploma; in fact, the testimony presented at the November 10, 2005 hearing on this matter, illustrated that the child would not be receiving a high school diploma irrespective of the status of his required course work. Instead, the portfolio of work discussed at the hearing on this matter is the work he must complete as required by the compulsory attendance law, not in furtherance of his high school diploma. 24 Pa.C.S.A. § 13-1327. Furthermore, the child, since beginning home school, has obtained a

welding certificate, an EMT certificate, and volunteers with the junior fire company; all indications that he can support himself. This Court finds that, for purposes of support obligations, after reviewing the totality of the circumstances, the child is emancipated effective August 24, 2005.

ORDER

AND NOW, this _____ day of April 2006, for the reasons set forth above, it is ORDERED and DIRECTED that the Exceptions filed by the Respondent/Defendant to the Family Court's order of November 17, 2006 are GRANTED and the Officer's Order is REVERSED. It is further ORDERED and DIRECTED that, the Respondent/Defendant's child support obligation ceased the day the child reached the age of majority, August 24, 2005.

By the Court,

Nancy L. Butts, Judge

cc: Joy R. McCoy, Esq.
A.M.S.
Family Court
Domestic Relations (SF)
Hon. Nancy L. Butts
Judges
Gary L. Weber, Esq.
Laura R. Burd, Law Clerk