

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

T.E.,		: NO. 06-21,580
	Petitioner	:
		:
	vs.	:
		: DOMESTIC RELATIONS SECTION
E. J.E.,		:
	Respondent	: Exceptions

**OPINION AND ORDER**

Before the Court are Respondent’s exceptions to the Family Court Order of February 27, 2007, which granted Petitioner’s request for spousal support. Argument on the exceptions was heard June 26, 2007.

Respondent contends the hearing officer erred in finding Petitioner entitled to spousal support, arguing the evidence demonstrated Petitioner was involved in an extramarital affair during the marriage and that she continued to violate their agreement, made post-discovery of the affair, that Petitioner have no further contact with the other man. The Court finds the hearing officer’s conclusions, that the affair was condoned by Respondent and that any breach of the agreement, if it happened, was also condoned, supported by the evidence. A finding of entitlement is not barred on that basis, therefore.

Respondent also contends the hearing officer erred in finding Petitioner justified in leaving the marriage, arguing that the alleged acts of misconduct on his part were unsubstantiated. The Court finds the hearing officer’s findings,that Respondent drinks to excess and becomes angry and belligerent to the point where Petitioner is frightened for her physical safety, to be supported by the record, however. The finding of entitlement will therefore be affirmed.

Finally, Respondent contends the hearing officer erred in assessing Petitioner an earning capacity based on her prior employment, arguing it should have been based on “the current wages for an individual with her training and experience.” The record fails to disclose, however, just what “the current wages for an individual with her training and experience” would be. The Court finds no error in assessing Petitioner an earning capacity based on the employment she held prior to leaving that employment to pursue further education.

ORDER

AND NOW, this 27<sup>th</sup> day of June 2007, for the foregoing reasons, Respondent’s exceptions are hereby DENIED. The Order of February 27, 2007, is affirmed.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Family Court  
Domestic Relations Section  
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Lori Rexroth, Esq.  
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Hon. Dudley Anderson