

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

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|---------|------------|------------------------------|
| B.A.H., | | : NO. 07 – 20,543 |
| | Petitioner | : |
| | | : |
| | vs. | : |
| | | : DOMESTIC RELATIONS SECTION |
| D.G.D., | | : |
| | Respondent | : Exceptions |

OPINION AND ORDER

Before the Court are Respondent's exceptions to the Family Court Order of July 31, 2007. Argument on the exceptions was heard October 2, 2007. Respondent asserts seven contentions of error; these will be addressed seriatim.

First, Respondent contends the hearing officer erred in awarding support for a time period which preceded entry of the Order denying her petition to relocate the children to Florida. As the children were in the physical custody of Petitioner during this time, however, this contention is without merit.

Next, Respondent contends the hearing officer erred in awarding support during the summer, when two of the children were with her in Florida. Since the custody arrangements do not provide Respondent with over forty percent of the overnights each year, however, no deviation is appropriate.

Next, Respondent contends the hearing officer should have awarded a downward deviation based on transportation expenses she will incur because of the distance involved in exchanging custody of the children. While the hearing officer found any such expenses to be offset by Respondent's less-than-usual living expenses (she lives rent-free with her parents), the Court also notes the entry of a custody order which provides for the sharing of transportation costs. This exception is therefore moot.

The next exception takes umbrage with the hearing officer's consideration of Respondent's less-than-usual living expenses, but for the reason just noted, this exception is also moot.

Next, Respondent contends the hearing officer should not have considered her tax refund, arguing that she may not receive the same amount in 2008. Since the refund is includable in income according to the guidelines, however, it was not error for the hearing officer to consider it. Further, Respondent will be able to seek modification should her circumstances change significantly.

Next, Respondent contends the hearing officer should not have deducted from Petitioner's income the loss he showed on his farm. Since Petitioner is employed full time as a teacher, the farm can be considered a "hobby farm" and the Court agrees any loss in such an endeavor should not detract from the income available for support of the children. The Court will therefore add back the loss which was deducted by the hearing officer, but will, however, deduct the increase in taxes which would be paid were the loss not claimed.

Finally, Respondent contends the hearing officer erred in failing to include in Petitioner's income the money he earns from "pig roasting". As it appears such money was included in the gross receipts of the farm income, however, such was indeed included; it was simply offset by the larger deductions related to that enterprise.

Accordingly, as adding back to Petitioner's taxable income the loss of \$7428 would reduce his refund by \$1118, while the monthly loss of \$619 will be added back, an additional tax liability of \$93.17 per month will be deducted, for a total monthly net income of \$4519. The child support is thus recalculated at \$630.06 per month for the initial period of April 13, 2007 through August 6, 2007, and at \$707.65 per month thereafter.

ORDER

AND NOW, this 3rd day of October 2007, for the foregoing reasons, Respondent's exceptions are hereby granted in part and denied in part. The Order of July 31, 2007, is hereby modified as follows:

1. Paragraph 1 shall provide for a payment of \$630.06 per month plus \$18.58 per month health insurance contribution for the period of April 13, 2007 through August 6, 2007, and effective August 7, 2007, for a payment of \$707.65 per month plus \$20.23 health insurance contribution.

2. Paragraph 4 shall provide for a 62.85%/37.15% split of the enumerated medical expenses from April 13 through August 6, 2007.
3. Paragraph 5 shall provide for a 59.54%/40.46% split of the enumerated medical expenses effective August 7, 2007.

As modified herein, the Order of July 31, 2007, is hereby affirmed.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations Section
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Hon. Dudley Anderson