

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

BB, : NO. 97 – 21,063
Petitioner : PACSES NO. 490100288
 :
vs. : DOMESTIC RELATIONS SECTION
 :
MW, :
Respondent : Exceptions

.....

KP, : NO. 08 – 21,314
Petitioner : PACSES NO. 391110371
 :
vs. : DOMESTIC RELATIONS SECTION
 :
MW, :
Respondent : Exceptions

OPINION AND ORDER

Before the Court are exceptions filed by Respondent on November 2, 2009, to the Family Court Order dated October 8, 2009. Argument on the exceptions was heard December 8, 2009.

Respondent contends the Hearing Officer erred in adding to his income from employment the entire tax refund he received in 2009. Respondent argues that a portion of this refund consisted of the extra \$25 per week he had withheld from his income in 2008, but that that \$25 per week was included in his income for purposes of calculating his prior support obligation. According to prior Orders, however, that \$25 per week was *never* previously included. In the Order of January 15, 2009, Respondent's support obligation (effective September 30, 2008) was based on the *net* year to date figures on a paystub dated October 30, 2008.¹ This net figure would *not* have included the \$25.00 extra he was having withheld. In the Orders of January 30, 2009, and February 23, 2009 (collectively effective January 15,

¹ In addition, Respondent's tax refund from 2007 was *not* included.

2009), as well as the Order of May 21, 2009 (effective March 23, 2009), Respondent's support obligation was based on his unemployment compensation and, of course, this figure would not have included the extra \$25 per week he had withheld from his paycheck during 2008. Finally, in the Order subject to the instant exceptions, Respondent's support obligation is based on his net income from employment in 2009. Naturally, this figure also does not include the \$25 per week withholding from 2008.² The Court therefore believes it was appropriate to add the entire tax refund, averaged over the twelve months of 2009, to Respondent's income in 2009.

To avoid further litigation, however, as Respondent has indicated he is no longer withholding the extra \$25 per week, and that his refund in 2010 will be reduced as a result, the Court will calculate Respondent's support obligation, effective January 1, 2010, based on his actual tax liability. Therefore, any future changes to his withholding and the resultant amount of future refunds will have no effect on his support obligation.

Based on Respondent's current gross income of \$580 per week, or \$30,160 per year, and considering a standard deduction for a single person and four exemptions, Respondent will have a taxable income of \$10,710, resulting in a federal income tax of \$1208. The child tax credit to which Respondent will be entitled will eliminate that tax, however, and Respondent will have no federal income tax liability. His social security/medicare tax is calculated at \$2,307, his state income tax at \$926, and his local income tax at \$528. His net income is thus \$26,399, or \$2200 per month.

Considering Ms. P's earning capacity of \$1813 per month and Respondent's income of \$2200 per month, the guidelines suggest a payment for the support of one minor child of \$462.13 per month. Considering Ms. B's earning capacity of \$1387 per month and Respondent's income of \$2200 per month, the guidelines suggest a payment for the support of two minor children of \$666.04 per month. Since the total exceeds 50% of Respondent's net income, both obligations must be reduced proportionately. Doing so results in an obligation to Ms. P of \$450.60 per month and to Ms. B of \$649.40 per month.

² In fact, Respondent indicated he is no longer having extra amounts withheld from his pay.

ORDER

And now, this 8th day of December 2009, for the foregoing reasons, Respondent's exceptions to the Family Court Order of October 8, 2009, are hereby denied. The Order of October 8, 2009, is hereby modified, however, effective January 1, 2010, to provide for a payment for the support of BW in the amount of \$450.60 per month, and for a payment for the support of AW and AW in the amount of \$649.40 per month. Arrearage payments shall be set by the Domestic Relations Office at that time. Also effective January 1, 2010, Respondent's obligation for excess unreimbursed medical expenses shall be modified to 55% with respect to B and 61% with respect to A and A.

Except as modified herein, the Order of October 8, 2009, is hereby affirmed.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations Section (SF)
BB
KP
MW
Gary Weber, Esq.
Hon. Dudley Anderson