

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

LGH, JR.,	:	NO. 12 – 20,387
Plaintiff	:	
	:	CIVIL ACTION - LAW
vs.	:	IN DIVORCE
	:	
JAH,	:	
Defendant	:	Exceptions

OPINION AND ORDER

Before the Court are Defendant’s exceptions to the Family Court Order of June 25, 2012. Argument on the exceptions was heard August 28, 2012.

A single issue is presented by the exceptions: did the hearing officer err in granting Plaintiff a deviation in setting his alimony pendente lite payment to Defendant based on the college expenses he is currently paying on behalf of the parties’ daughter? The court finds that the deviation is appropriate.

Defendant’s main contention is that by granting Plaintiff a deviation, the hearing officer is effectively requiring her to contribute to the college expenses of the child even though the law does not require such a contribution. While it is true that the law does not require such a contribution and that a parent who objects to making one may use that law as a shield, Defendant has demonstrated that she has no such objection by herself contributing to their daughter’s expenses in the form of a Parent Plus Loan. The court therefore believes it appropriate to consider the payments being made by Plaintiff when setting his apl payment.

The support rules require the trier of fact to consider the relative liabilities of the parties. Pa.R.C.P. 1910.16-5(b)(5). In the instant case, although both parties have a liability toward their daughter’s college expenses, Defendant’s obligation is in forbearance while Plaintiff is making payments of \$1,124 per month for ten months of the year. Since only Plaintiff has a present and ongoing expense, the court finds no error in the deviation granted by the hearing officer.

ORDER

AND NOW, this 29th day of August 2012, for the foregoing reasons, Defendants exceptions are hereby DENIED.

The Order of June 25, 2012, is hereby affirmed.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations Section
Marc Drier, Esq.
Christina Dinges, Esq.
Gary Weber, Esq.
Hon. Dudley Anderson