

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

DT,		: NO.05 – 21,313
	Petitioner	: PACSES NO. 690107708
		:
	vs.	:
		: DOMESTIC RELATIONS SECTION
AS,		:
	Respondent	: Exceptions

OPINION AND ORDER

Before the Court are Respondent’s exceptions to the Family Court Order of January 10, 2012. Argument on the exceptions was heard April 3, 2012.

A single issue is raised in these exceptions: Respondent objected to contributing to a child care expense on the basis that his wife is available to provide the childcare at no cost, but the Family Court Hearing Officer found that the issue is a “custody issue” and awarded a childcare contribution without considering the arguments of each party for or against such an arrangement. The court is thus called upon to determine whether the issue is to be determined as part of the support obligation or, rather, whether it is a custody issue to be determined through custody proceedings.

The support guidelines provide that “Reasonable child care expenses paid by either parent, if necessary to maintain employment or appropriate education in pursuit of income, shall be allocated between the parties in proportion to their net incomes”. 42 Pa.C.S. Section 1910.16-6(a). This language begs the question while also answering it: whether the expenses are necessary depends on a determination of whether the proposed free childcare arrangement is in the child’s best interest, and whether something is in a child’s best interest is undoubtedly a custody issue. Indeed, in the instant case, Petitioner attempted to oppose Respondent’s request by relying on information from the child’s therapist. In a custody hearing, the court would be able to fully explore all facets of the issue, having framed the issue prior to trial and given the parties a full opportunity to present any relevant evidence they believed important. On the other hand, when raised in a support hearing, the parties are usually unprepared to offer

relevant evidence and the Hearing Officer would be called upon to make a determination based on what would amount to mere arguments. The court therefore believes reserving the determination to a custody court would better serve everyone's interests.

Accordingly, the hearing officer having stated that the child care issue is a custody issue, not a support issue, the court will enter the following:

ORDER

AND NOW, this 3rd day of April 2012, for the foregoing reasons, Respondent's exceptions are hereby denied. The Order of January 10, 2012, is hereby affirmed, without prejudice to Respondent's right to file a petition requesting a court determination of the legal custody issue of the childcare arrangements.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations Section (SK)
Rebecca Reinhardt, Esq.
Michael Morrone, Esq.
Gary Weber, Esq.
Hon. Dudley Anderson