

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

KMW,		: NO. 02 – 21,050
	Petitioner	: PACSES NO. 625104702
		:
	vs.	:
		: DOMESTIC RELATIONS SECTION
DMB,		:
	Respondent	: Exceptions

OPINION AND ORDER

Before the Court are Respondent’s exceptions to the Family Court Order of February 12, 2013. Argument on the exceptions was heard April 23, 2013.

Respondent contends the hearing officer erred in using incorrect tax returns in determining the award of tax exemptions, failing to use Petitioner’s most recent paystub, and in basing the award of child support on Petitioner’s actual (part-time) income rather than her earning capacity. These will be addressed seriatim.

Each party presented mock tax returns, using zero, one or two dependents, in order that it might be determined which combination provided the maximum combined tax refund. Finding that the refund was maximized when each party claimed one of their two children, the hearing officer awarded one exemption to each party. Respondent contends this award was based on faulty information contained on Petitioner’s mock returns. First, he claims that Petitioner should have taken the standard deduction for “head of household” on the return where Petitioner claims zero dependents, as she has checked the “head of household” box on the front page, but has taken the standard deduction for a single person. As the tax code provides that “head of household” cannot be used if one has no dependents, however, even though the wrong box is checked on the first page, the correct deduction was taken. This allegation of error is therefore without merit. Second, Respondent argues that Petitioner’s tax return for claiming one dependent contains an egregious math error, as on line 43 it should state taxable income of \$12413, not \$1243. Respondent is correct that the return contains an error on line 43. As the tax is calculated based on the correct amount of \$12413, however, the error

is without merit. Apparently the error was in writing down the figure, and was not actually made in the calculation of the tax. This allegation of error is therefore also without merit.

Next, Respondent contends the hearing officer did not use Petitioner's most recent paystub in calculating her income. It appears that the paystub was not provided to Respondent but was indeed considered. Therefore, this allegation is also without merit.

Finally, Respondent contends the hearing officer erred in basing her calculation of child support on Petitioner's actual income rather than an earning capacity. Respondent was not able to dispute any of the hearing officer's factual findings, however, and the court finds no fault with the hearing officer's conclusions based on those findings. While Respondent now argues that Petitioner has obtained full time employment, thus showing she had the capacity to do so, a modification petition based on that new employment may be filed, and such higher income will be considered at that time.

ORDER

AND NOW, this 23rd day of April 2013, for the foregoing reasons, Respondents's Exceptions are hereby DENIED. The Order of February 12, 2013, is hereby affirmed.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations Section
KW
DB
Gary Weber, Esq.
Hon. Dudley Anderson