

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

JESSICA WHEELAND, : NO. 99-21,532
Petitioner
vs. : Domestic Relations Section
: Exceptions
ANTHONY THOMKE, :
Respondent

OPINION AND ORDER

Before the Court are Respondent's exceptions to the Family Court Order of April 28, 2000, in which Respondent was directed to pay child support to Petitioner. Argument on the exceptions was heard July 12, 2000.

Respondent's exceptions all concern the earning capacity assessed to him by the Family Court Officer in calculating his child support obligation. Respondent's argument focuses on his present situation, wherein he is involved in attempting to purchase a business. Respondent seeks to analogize his situation to one wherein a party leaves a lower paying job to return to school to obtain an education which will provide him with a higher income/earning capacity. Petitioner counters with the argument that at the hearing in Family Court, the testimony indicated that if Respondent succeeds in purchasing this business, he will have no higher of an income than he would if he simply got a job.

Considering Petitioner's argument, which was not rebutted by Respondent, and also considering that Respondent has been laid-off from his previous employment since October 1993, the Court does not accept Respondent's argument. Accordingly, assessment of an earning capacity is appropriate and the Court finds no error in the particular earning capacity assessed in this matter.

ORDER

AND NOW, this day of July, 2000, for the foregoing reasons, Respondent's exceptions are hereby denied and the Family Court of April 28, 2000 is hereby affirmed.

By The Court,

Dudley N. Anderson, Judge

cc: Christina Dinges, Esq.
Steve Sholder, Esq.
Family Court
Domestic Relations, (Barbra Hall)
Gary Weber, Esq.
Hon. Dudley N. Anderson