

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

TINA L. FOX, : NO. 94-20,397
Petitioner :
 :
 :
vs. : DOMESTIC RELATIONS SECTION
 : Exceptions
TIMOTHY L. EDKIN, :
Respondent :
 :

SHARON L. EDKIN, : NO. 89-21,737
Petitioner :
 :
 :
vs. : DOMESTIC RELATIONS SECTION
 : Exceptions
TIMOTHY L. EDKIN, :
Respondent :
 :

OPINION AND ORDER

Before the Court are Respondent's exceptions to the Family Court Order of May 31, 2000 in which Respondent was directed to pay child support to each Petitioner. Argument on the exceptions was heard August 30, 2000.

Respondent questions why Petitioner Fox did not submit a 1999 federal income tax return. According to the Order of May 31, 2000, Petitioner Fox testified that she did not have any income during 1999. The Court therefore assumes the hearing officer did not request a return based upon that testimony. It is noted the hearing officer assessed Petitioner Fox with a minimum wage earning capacity. The Court finds no error in the hearing officer not requiring Tina Fox to submit a tax return.

Respondent also questions who claimed the child, Stephen Simcox as an exemption on their tax return. Although from the Order it is not possible to answer that question, since Petitioner Fox had no income in 1999, the Court believes Respondent

should be entitled to claim the child as an exemption. The Court will therefore require Petitioner Fox to sign a release to claim of exemption for tax year 1999 and thereafter but will also recalculate Respondent's child support obligations considering the additional income he will receive from claiming the exemption.

From his 1999 federal income tax return, it is possible to conclude that claiming an additional dependent, Respondent and his wife's total taxable income will be lowered to \$12,560.00, lowering his tax to \$1,886.00. Respondent and his wife will be able to take a child tax credit for two (2) children of \$1,000.00, resulting in a net tax of \$886.00. He will therefore will be entitled to a refund of \$2,669.00. Since Respondent's income is 83.57% of the total income between he and his wife, his share of the tax of \$886.00 is \$740.00. He had \$3,369.00 withheld from his pay in 1999 and therefore is entitled to a refund of \$2,629.00 of the total refund. Averaged over a twelve (12) month period, Respondent has an additional \$219.00 per month from the tax refund. Adding this to his income from employment of \$1,524.00 per month and his income from the National Guard of \$218.00 per month provides Respondent with a total monthly net income of \$1,961.00. Considering Petitioner Fox's earning capacity of \$750.00 per month and Respondent's income of \$1,961.00 per month, Respondent has a child support obligation to Petitioner Fox of \$453.30 per month. Considering Petitioner Edkin's income of \$1,191.00 per month and Respondent's income of \$1,961.00 per month, Respondent has an obligation to Petitioner Edkin of \$424.20 per month.

ORDER

AND NOW, this day of September, 2000, for the foregoing reasons, Respondent's exception respecting the dependency exemption is hereby granted and the Order of May 31, 2000, as amended by the Order of June 14, 2000, is hereby modified to provide that Petitioner Fox sign the release of claim to dependency exemption for the child Stephen M. Simcox for tax year 1999 and a similar release for each tax year thereafter until further modified by the Court. Should Petitioner Fox obtain employment, she may request the Court to modify this provision to allow her to claim the child as a dependent on

her federal income tax return. Further, the Order of May 31, 2000 as amended by Order dated June 14, 2000 is hereby modified to provide that Respondent pay for the support of his child to Petitioner Fox the sum of \$453.30 per month and for the support of his child to Petitioner Edkin the sum of \$424.20 per month. Respondent's obligation for contribution to excess unreimbursed medical expenses is also modified with respect to Petitioner Fox to 72.33% of such and with respect to Petitioner Edkin to 62.21% of such.¹

As amended herein, the Order of May 31, 2000 as amended by the Order of June 14, 2000 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations
Tina Fox, 2500 Federal Ave., Apt. 10S, Williamsport, PA
Sharon Edkin, 2414 Grand St., Williamsport, PA
Timothy Edkin, 20 S. Main St., Apt. 8, Montgomery PA 17752
Gary Weber, Esq.
Hon. Dudley N. Anderson

¹It is noted that the Order of May 31, 2000 indicates that Respondent is responsible for 71% of medical expenses incurred by Petitioner Edkin but such is a typographical error as Petitioner Edkin is therein directed to be responsible for 39% of such. It is assumed that the original figure should be 61%.