

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

CS, : NO. 02-20,226
Petitioner :
 :
vs. : DOMESTIC RELATIONS SECTION
 : Exceptions
GNS, :
Respondent :

OPINION AND ORDER

Before the Court are Respondent’s exceptions to the Family Court Order dated April 22, 2002, in which Respondent was directed to pay spousal support to Petitioner. Argument on the exceptions was heard May 29, 2002.

In his exceptions, Respondent contends only that the hearing officer erred in basing his decision that Petitioner has no earning capacity on a document which was not introduced into evidence, but rather, was received by the hearing officer after the hearing. Respondent contends he should have been afforded an opportunity to view the document and to call the author on cross-examination if he so wished. The Court agrees.

While Section 4342 of the Domestic Relations Code provides for an exception to the Hearsay Rule for verified documents which would not be excluded under the Hearsay Rule if given in person, if such documents are given under oath by a party or witness, and while the document provided to the Family Court Hearing Officer, a Pennsylvania Department of Public Welfare Employability Reassessment Form, may qualify under the rule as a verified document, it definitely was not introduced under oath by a party or witness. Respondent should have been afforded an opportunity to view the

document and to call the author¹ on cross-examination.

ORDER

AND NOW, this 31st day of May, 2002, for the foregoing reasons, the matter is hereby remanded to Family Court for further hearing, at which Respondent may call witnesses in response to the document provided by Petitioner.

By the Court,

Dudley N. Anderson, Judge

cc: Domestic Relations
Family Court
Brad Hillman, Esq.
Scott Gardner, Esq.
Dana Jacques, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson

¹ The Court cannot tell whether the statement of Petitioner's disability was made by Vincent Walsh, DO, or Mary A. Crouse-Novak, LCSW, as it is signed by both in different locations.