

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

TRACEY C. CARTER,

Appellee

v.

TROY L. CARTER,

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 3817 EDA 2016

Appeal from the Order Entered November 23, 2016
In the Court of Common Pleas of Philadelphia County
Domestic Relations at No(s):
009807300
PACSES No. 363004162

BEFORE: BENDER, P.J.E., BOWES, J., and SHOGAN, J.

DISSENTING MEMORANDUM BY BENDER, P.J.E.: **FILED NOVEMBER 30, 2017**

Because I would conclude that the trial court's findings are not sufficiently supported by the evidence presented, I respectfully dissent. For example, the court's determination that the evidence supported a finding that Troy II could not work at any profitable employment is unreasonable in light of the fact that he was apparently successful in taking computer classes. Also, the fact that Troy II needs assistance in traveling and would only consider an office job is not enough to support the court's decision. Additionally, Mother's testimony about Troy II's physical problems was not supported by any expert testimony or report.¹ Therefore, I would conclude

¹ Moreover, the documentary evidence submitted at the master's hearing, namely, the psychiatric reports, were not authenticated and should not have
(Footnote Continued Next Page)

that the court abused its discretion and erred as a matter of law by determining that Mother/Troy II carried their burden of rebutting the presumption of non-support. Furthermore, I note that no evidence was presented by Mother/Troy II that was directed at proving the availability of employment at a supporting wage. ***See Style v. Shaub***, 955 A.2d 403, 409 (Pa. Super. 2008) (stating “the test is whether the child is physically and mentally able to engage in profitable employment and whether employment is available to that child at a supporting wage”). Accordingly, I must dissent.

(Footnote Continued) _____

been allowed into the record. However, since no objection was raised at the time, we cannot rely on this error.