IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
DOMESTIC RELATIONS SECTION

JULI' A. D'ANCONA-MAHER,	:	
Plaintiff	:	
	:	
vs.	:	**No. 197 DR 96**
	:	
	:	**PACSES Case No.035001882**
JEREMY D. GERHART,	:	
Defendant	:	

Joseph P. Maher, Esquire — **Counsel for the Plaintiff**
Jeremy D. Gerhart — **Pro Se**

MEMORANDUM OPINION

Webb, S.J. – July 8, 2010

Here before the Court is the Plaintiff Juli' A. D'Ancona-Maher's (hereinafter, "Plaintiff") Appeal of this Court's Amended Order dated May 20, 2010, which denied and dismissed her exceptions to the Domestic Relations Hearing Officer's Report dated January 15, 2010. We file the following Memorandum Opinion pursuant to Pa.R.A.P. 1925 and further recommend that our Amended Order of May 20, 2010 be affirmed for the reasons set forth in this Memorandum Opinion.[1]

FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff filed a Petition for Modification of Support on January 30, 2009 for one minor child, Sage Gerhart (hereinafter "Child"), against Defendant Jeremy D. Gerhart (hereinafter "Defendant"). The Conference Officer entered an Order on March 2, 2009, indicating that the parties were unable to resolve the

[1] **This Court did not request that Plaintiff file a Concise Statement of Matters Complained of on Appeal pursuant to Pa.R.A.P. 1925. Accordingly, this Court considers the issues raised in Plaintiff's Brief in support of her exceptions as the matters complained of on appeal by Plaintiff.**

matter and recommended it go to the Hearing Officer. Plaintiff refused to waive any procedural irregularities before the Hearing Officer, and the matter was sent back to the Conference Officer. An Interim Order was entered on June 22, 2009, directing Defendant to pay $503 per month in child support and 100% of any unreimbursed medical expenses. This calculation was based on a pay rate of $15 per hour. Defendant filed an appeal of this Interim Order on July 10, 2009.

A hearing was subsequently held before Hearing Officer William G. Schwab, Esquire (hereinafter, "Hearing Officer") on September 18, 2009. In the hearing, the Hearing Officer determined that Defendant currently earns $10.50 per hour for a job he began working the day of the hearing. The Hearing Officer issued a Report on September 18, 2009, recommending that Defendant pay child support of $367 per month from January 30, 2009 to April 30, 2009; pay child support of $296 per month from May 1, 2009 to September 17, 2009; and pay child support of $380 per month starting on September 18, 2009. The Report also recommended that Defendant pay 53% of any unreimbursed medical expenses. Plaintiff filed Exceptions to the aforementioned Report on October 9, 2009, which argued, *inter alia*, that the Hearing Officer committed an error of law and/or an abuse of discretion in prohibiting Plaintiff from introducing into evidence a national wage study relating to cooks. On December 22, 2009, this Court remanded this matter to the Domestic Relations Office for a hearing on the issue of Plaintiff's Exhibit #4, which was the aforementioned wage study. A hearing on the issue of the wage study was held before the Hearing Officer on January 15, 2010. At this hearing, the Hearing Officer admitted the wage study into evidence without objection by Defendant.

On January 15, 2010, the Hearing Officer issued a Report recommending that Defendant's support obligations and terms be the same as those contained in his September 18, 2009 Report. On January 29, 2010, this Court entered an Order increasing Defendant's support obligation to $454 per month, effective

January 1 2010, in order to account for Defendant's share of the health insurance premiums paid by Plaintiff to provide coverage for the Child. On February 5, 2010, Plaintiff filed multiple Exceptions to the Hearing Officer's Report dated January 15, 2010. Plaintiff filed a Brief in support of her exceptions on April 7, 2010. The Brief requests that this Court overturn the Hearing Officer's Recommended Orders, give Defendant an earning capacity of $15 per hour, and pay an additional $98 per month (72.49%) for the Child's health insurance.

On June 21, 2010, Plaintiff filed a Notice of Appeal of our Amended Order dated May 20, 2010 to the Superior Court of Pennsylvania.

ISSUES

Plaintiff filed numerous Exceptions relating to the Hearing Officer's Findings of Fact and Conclusions of Law. Those Exceptions specifically provide as follows:

1. **The Court, William G. Schwab, Esquire, Hearing Officer (hereinafter the "Court") committed an error of law and/or an abuse of discretion in Finding of Fact (hereinafter "F.O.F.") #6a in finding that Defendant was starting a new job as of the day of the 1st hearing, i.e. September 18, 2009, and what Defendant's hourly wage was to be at such new job. As Hearing Officer Schwab repeatedly told Plaintiff/Plaintiff's counsel, the parties were required to follow the Order/instructions for said *de novo* hearing, which required BOTH (emphasis added) parties, and not just Plaintiff to provide documentation of their respective incomes. Defendant did not provide even one (1) piece of supporting documentary evidence regarding this or any other of his contentions made at the hearing. Therefore, the Hearing Officer should have given Defendant a deemed income such as was established by the Conference Officer report/order.**

2. **The Court committed a 2nd error of law and/or an abuse of discretion in F.O.F. #6a in not finding**

that the Earnings Report (Plaintiff's Exhibit "C") was presented to Defendant on cross-examination to prove the fact that Defendant had been terminated at his prior position with Lake Naomi Club due to excessive "absenteeism" and not for the purpose of proving any appropriate income Defendant should be charged with for purposes of determining child support. Also given that he was terminated for "cause", he should not be entitled to have his income reduced due to his unemployment compensation level.

3. The Court committed an error of law and/or an abuse of discretion in F.O.F. #6b in precluding Plaintiff from extensively cross examining Defendant regarding his past job history especially since Plaintiff's major contention in filing her January 30, 2009, Petition for Modification was due to her contention---to which the Conference Officer agreed---that Defendant should be given a deemed income based upon his educational skills and his failure to comply with prior Orders of Court requiring him to retain gainful employment. By failing to retain gainful employment, i.e. he admitted he had at least ten (10) different positions over the last ten (10) years, he essentially self-destructed any opportunities he may have had to obtain pay raises and/or promotions at one or more of these prior employers. Additionally, it is FALSE (emphasis added) that Defendant NEVER (emphasis added) worked in the field for which he got his associated [*sic*] degree in business.

4. The Court in the form of Master Schwab committed an error of law and/or an abuse of discretion in F.O.F. #6c in that it failed to utilize a national wage study relating to cooks, which Defendant admitted under cross examination was the type of position in which he had most recently been employed in at least his last two positions.

5. The Court committed an error of law and/or an abuse of discretion in F.O.F. #6c in first precluding extensive testimony on Defendant's past job record and then making an arbitrary decision that Defendant did not have the ability to have been making at least $30,779 per *annum* with no contra

[*sic*] testimony being presented by Defendant as to what his earning capacity should be.

6. The Court committed an error of law and/or an abuse of discretion in first interfering with Plaintiff's counsel's direct examination of Plaintiff regarding her 2008 earnings and in particular not making a Finding of Fact that she was unable to always work full-time due to her ongoing cancer related physical condition and treatments. This interference by the Master was indicative of his different, discriminatory treatment of Plaintiff's presentation of her case versus his treatment of Defendant's presentation of his case.

7. The Court committed an error of law and/or an abuse of discretion in F.O.F. #6e in not finding that Plaintiff was [*sic*] untitled to an upward deviation in the amount of child support she receives from Defendant due to the fact that she has other children in her household that precludes her from earning additional income to support the subject child and provide for her ongoing needs.

8. The Court committed an error of law and/or an abuse of discretion in not making a F.O.F. that Defendant, though previously ordered to due [*sic*] so and also pursuant to his own statements, had failed to provide medical insurance for his daughter. Furthermore, due to his irresponsibility said daughter was uncovered by medical insurance for most of the past year. Such a finding would justify an upward deviation in the amount of Defendant's support order which is essentially what the Conference Officer did in this case by giving Defendant a deemed income of $18.00 per hour.

9. The Court committed an error of law and/or an abuse of discretion in F.O.F. #13 by not finding that while Plaintiff was represented by private counsel, said counsel was acting *pro bono* in this matter.

10. The Court committed an error of law and/or an abuse of discretion in Conclusion of Law #10 (hereinafter "C.O.L.") in not making an upward deviation based upon both a deemed income theory

supported by the uncontradicted fact that Defendant has not had steady employment both early in calendar year 2009 as well in past years due to his failure to maintain job positions due solely by [*sic*] his failure to consistently appear for work.

11. The Court committed an error of law and/or an abuse of discretion in C.O.L. #10 in not giving Defendant a deemed income at least at the level of his prior employment with the Lake Naomi Club, but rather establishing such from May 1, 2009 through September 17, 2009 at the level of Defendant's unemployment. This despite the fact that Defendant was terminated by the Lake Naomi Club solely due to his absenteeism as reported in Plaintiff's Exhibit "C" (the Earnings Report).

12. Plaintiff also takes exception to Procedure for Filing Exceptions #7 that the filing of said exceptions is automatically deemed to be a waiver of the 60-day rule stated in Pa.R.C.P. 1910.12(h). This Honorable Court should note that Plaintiff specially does NOT (emphasis added) consent to the waiver of said rule.

13. The Court committed an error of law and/or an abuse of discretion in C.O.L. #6 first in mis-citing Pa.R.E. as 830 rather than 803. Second, while Pennsylvania has NOT (emphasis added) adopted what is essentially F.R.E. 803(8), it has in existence 42 Pa.C.S. §6104(b) that states:

> **Existence of facts.--- A copy of a record...shall be admissible as evidence of the existence or nonexistence of such facts, unless the sources of information or other circumstances indicated lack of trustworthiness.**

Nothing stated at the hearings of September 18, 2009 or January 15, 2010 indicates that Petitioner's Exhibit #4 was untrustworthy. Additionally, Defendant did NOT (emphasis added) object to the admission of said exhibit.

14. C.O.L. #7 does not pertain to any matters raised at the time of the January 15, 2010 hearing. IF

(emphasis added) such a discussion had taken place, the Master would have been informed that such a Labor & Industry (L & I) report was discussed and mentioned at the support conference held at the [sic] March 2, 2009. Following said conference, counsel for the Petitioner wrote the following to Conference Officer Robert Reese on March 5, 2009 wherein he stated:

> **You will recall that your [Mr. Reese] L & I regional report from several years ago indicated an annual income of '$100,000' for someone with management/marketing skills that Mr. Gerhart proposed he has. However, even when my client said she would not suggest that your office impose such a level of income upon him, but one in the range of the upper thirty to low forty thousand dollar range, in contrast to his current less than $20,000 current income, you still did NOTHING!**

Defendant was present at the conference on March 2, 2009, and said nothing regarding this matter except to agree with Petitioner regarding her statement of Defendant being given a lower deemed income in the $30,000-$40,000 range. Petitioner [*sic*] for Petitioner was not given a copy of this L & I report though verbal request [*sic*] for such were made on more than one occasion.

15. The Plaintiff also requests leave of Court to submit any other additional grounds that may arise once she and her counsel have obtained a copy of the transcript of the hearing of September 18, 2009.

However, Plaintiff only briefed the following three (3) issues in her April 7, 2010 Brief:

1. Whether the Master improperly interfered in the judicial process at the September 18, 2009 and January 15, 2020 hearings by asking questions of Plaintiff that were not at issue especially since the purpose of her testimony was simply to put on record her current earning/earning capacity as well as produce evident [*sic*] of what Defendant's earning capacity or deemed income should be.

2. Whether the Master committed an error of law and/or an abuse of discretion in disallowing the introduction into evidence of Plaintiff's Exhibit 4 as to a wage study and following it after it was admitted into evidence without objection.

3. Whether the Master committed an error of law and/or an abuse of discretion in not finding that Defendant should have been given an earnings capacity/deemed income of fifteen dollars per hour retroactive to the date Plaintiff filed her Petition to Modify.

We believe that all the issues included in Plaintiff's Exceptions which have not been briefed are abandoned and, therefore, we shall not address those issues on appeal. See Collins v. Cooper, 746 A.2d 615, 619 (Pa. Super. 2000) (holding that "[w]here an appellant has failed to cite any authority in support of a contention, the claim is waived").

DISCUSSION

Initially, we note that the report of the Hearing Officer "is entitled to great consideration in that he has heard and seen the witnesses and...it should not be lightly disregarded...." Pasternak v. Pasternak, 204 A.2d 290, 291 (Pa. Super. 1964). "[H]owever, it is advisory only and the reviewing court is not bound by it and it does not come to the court with any preponderate weight or authority which must be overcome." Id. "The reviewing court must consider the evidence de novo, its weight and the credibility of the witnesses." Id. "The master's report is not controlling either on the lower court or upon the appellate [c]ourt." Id. Thus, "the trial court is required to make an independent review of the report and recommendations to determine whether they are appropriate." Kohl v. Kohl, 564 A.2d 222, 224 (Pa. Super. 1989).

1. Questioning of Plaintiff by the Hearing Officer

Plaintiff contends in her Brief that the Hearing Officer improperly asked questions of Plaintiff regarding subjects that were not at issue at the September 18, 2009 and January 15, 2010 hearings. Plaintiff argues that the Hearing Officer's *sua sponte* remarks and questions were unnecessary because the parties explained to him that they were putting evidence of both Defendant's and Plaintiff's earning capacities into the record in support of Plaintiff's Petition for Modification seeking a higher deemed income for Defendant. In support of this contention, Plaintiff argues that the Court should not depart from the line of questioning being maintained by counsel, or engage in extended examination of witnesses. See Commonwealth v. Hammer, 494 A.2d 1054 (Pa. 1985); Harman v. Borah, 756 A.2d 1116 (Pa. 2000).

However, in her Brief, Plaintiff does not provide any factual support from the record in this matter for her proposition that the Hearing Officer erred in his questioning of Plaintiff. At no point in the argument section of her Brief does Plaintiff cite any examples of questioning, from the record of either hearing, by the Hearing Officer which she believes was inappropriate or unnecessary. It is not the province of this Court to guess as to which of the questions asked by the Hearing Officer Plaintiff is seeking to challenge. See Commonwealth v. Snell, 811 A.2d 581 (Pa. Super. 1982). "We cannot scour the record on [Plaintiff]'s behalf trying to find mistakes by the hearing judge. It is the [Plaintiff]'s responsibility to precisely identify any purported errors." In re Child M., 681 A.2d 793, 799 (Pa. Super. 1996).

Accordingly, this Court is unable to consider Plaintiff's first contention because she has not fully developed the issue by providing this Court with sufficient evidence of record to allow for a meaningful review and determination on the merits. "When issues are not properly raised and developed in briefs, when the briefs are wholly inadequate to present specific issues

for review, a court will not consider the merits thereof." Commonwealth v. Sanford, 445 A.2d 149, 150 (Pa. Super. 1982). See also Snell, 811 A.2d at 590 (refusing to consider appellant's assertion that the trial court erred in denying his motion to suppress statements where appellant did not indicate in his brief which statements he was challenging, or where in the record any such statements were contained).

2. The Admission of Plaintiff's Exhibit #4

Plaintiff contends that the Hearing Officer erred in not relying upon Plaintiff's Exhibit #4 (hereinafter "wage study") after it was admitted into evidence without objection by Defendant. Plaintiff argues that the wage study is probative evidence of Defendant's earning capacity, which can be used to establish a deemed income. In his January 15, 2010 Report, the Hearing Officer noted that the wage study is a one-page document containing a logo of "CNNMoney.com" and is entitled "Salary Wizard Basic Report." (Hearing Officer's Report, 1/15/10, pg. 2, 3). The wage study indicated that the median salary for a typical short order cook in the United States is $30,779. (Hearing Officer's Report, 1/15/10, pg. 2). The Hearing Officer determined that the wage study was not reliable evidence that could be used to "conduct or base a determination of support on earning capacity." (Hearing Officer's Report, 1/15/10, pg. 3). More specifically, the Hearing Officer determined that no basis was presented on which to ascertain the wage study's reliability or applicability to determining earning capacity in Carbon County. (Hearing Officer's Report, 1/15/10, pg. 3).

After a careful review of the record, we conclude that the Hearing Officer did not err in refusing to consider the wage study, although it was admitted into evidence without objection by Defendant. "A master's hearing, although perhaps less formal, is no less subject to the rules of evidence than a trial before a Judge." Regan v. Regan, 322 A.2d 711, 714 (Pa. Super. 1974). In order for evidence to be admissible, it must be

authenticated. Pa.R.E. 901(a).[2] Evidence can be authenticated by testimony of a witness with knowledge of the matter at hand. Pa. R.E. 901(b)(1). "A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter." Pa. R.E. 602. As a general rule, "the weight of the evidence is exclusively for the fact finder who is free to believe all, part or none of the evidence and to determine the credibility of the witnesses." Commonwealth v. Champney, 832 A.2d 403, 408 (Pa. 2003).

In the case *sub judice*, the Hearing Officer's conclusion that the wages study was not reliable evidence is clearly supported by the record. Plaintiff does not have sufficient knowledge of the method of preparation of the wage study in order to enable her to authenticate it. Plaintiff also did not present sufficient evidence to show that the wage study is a reliable indicator of the earning capacity of a short order cook in Pennsylvania.

Plaintiff testified that Defendant worked as a cook prior to becoming unemployed. (N.T. 1/15/10, pg 5). Plaintiff stated that she conducted research on the internet regarding earning capacity of short order cooks, the results of which (the wage study) indicated a median salary of $30,770 for short order cooks in the United States. (N.T. 1/15/10, pg 5, 6). Plaintiff believed that this salary was reasonable given Defendant's past experience as a short order cook. (N.T. 1/15/10, pg 6). Plaintiff also stated that she believed that the median salary was low for Pennsylvania, but she did not offer a basis for that belief other than her feeling that the cost of living in Pennsylvania is higher. (N.T. 1/15/10, pg 11).

Plaintiff's counsel did not offer any foundation to establish that the wage study is reliable evidence of earning capacity. Plaintiff did not testify as to how the wage study was

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[2] Pa.R.E. 901(a) states that: "The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims."

conducted, the type and quality of data it used, the methodology it used, or whether it was up-to-date and accurate. Plaintiff did not present any testimony as to whether the wage study accurately reflects salaries for short order cooks in Carbon County or anywhere else in Pennsylvania. (N.T. 1/15/10, pg 9). Moreover, the wage study itself states that "your pay can be dramatically affected by compensable factors such as employer size, industry, employee credentials, years of experience and others." (Plaintiff's Exhibit 4; Hearing Officer's Report, 1/15/10, pg. 2). Plaintiff did not present any evidence of how long Defendant had worked as a cook. Plaintiff merely testified that he was a cook at two different restaurants. (N.T. 1/15/10, pg 5).

Given Plaintiff's lack of knowledge surrounding the wage study, her testimony did not provide a sufficient basis to authenticate it. Since the wage study was not properly authenticated, it cannot be considered reliable evidence of Defendant's earning capacity. However, even if properly authenticated, the wage study is nevertheless an unreliable indicator of earning capacity because no evidence was presented by Plaintiff to show that the median salary is an accurate reflection of the salary of a short order cook in Pennsylvania. Therefore, like the Hearing Officer, we do not attach any evidentiary weight to the wage study. Accordingly, as previously stated, the Hearing Officer did not err in refusing to consider the wage study as evidence of Defendant's earning capacity.[3]

[3] We also note that the wage study is hearsay not falling within any recognized exception. "'Hearsay' is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Pa.R.E. 801(c). Hearsay is inadmissible except as prescribed by rule or statute. Pa.R.E. 802. The wage study was introduced before the Hearing Officer in order to prove the truth of the matter asserted by Plaintiff's counsel: that Defendant should be given a higher deemed income. However, the wage study does not fall within any recognized hearsay exception and is therefore inadmissible. It cannot be considered a business record under Pa.R.E. 803(6) because Plaintiff is not a custodian of records for the authors of the wage study. It also cannot be considered a public record or report under 42 Pa. C.S.A. § 6104 since it is not "a record of governmental action or inaction."

3. Earning Capacity/Deemed Income of Defendant

Plaintiff contends that the Hearing Officer erred in not determining that Defendant should have an earning capacity/deemed income of $15 per hour retroactive to the date Plaintiff filed her Petition to Modify. Plaintiff argues that evidence was presented that Defendant had the skills and education to perform higher paying positions. Plaintiff also argues that a Pennsylvania Department of Labor & Industry study, which Plaintiff's counsel was unable to obtain from the Conference Officer, indicated that Defendant would be making upwards of $100,000 if he had stayed in the field in which he received advanced training. Plaintiff further argues that over the years Defendant has done nothing to find suitable employment, or even any employment, when he has been terminated.

With regard to the Department of Labor & Industry study, this Court cannot consider it as evidence of Defendant's earning capacity because it is not contained in the record before us. See Ney v. Ney, 917 A.2d 863, 866 (Pa. Super. 2007) (holding that "[a] trial court may not consider evidence outside of the record in making its determination.") At either the September 18, 2009 or January 15, 2010 hearings, Plaintiff never mentioned the study or requested that it be considered by the Hearing Officer.

As to Defendant's earning capacity, the Hearing Officer determined that the fact that Defendant has an Associate's Degree in Marketing and Management was not relevant to his earning capacity. (Hearing Officer's Report, 9/18/09, pg. 1). Relevant evidence is defined as "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Pa.R.E. 401. Defendant testified that he earned the degree in 1991, and that he worked in marketing and management 15 or 20 years ago. (N.T. 9/18/09, pg. 20). The Hearing Officer determined that, due to the length of time that has elapsed, this was not relevant evidence of

Defendant's current earning capacity. (Hearing Officer's Report, 9/18/09, pg. 1). Given that the degree is 16 years old, and that Defendant has only held one job in marketing and management about 16 years ago, we would be hard-pressed to conclude that the degree would be probative evidence of Defendant's current earning capacity. Accordingly, we agree with the Hearing Officer that the degree is not relevant evidence of Defendant's current earning capacity. Therefore, the Hearing Officer did not err in concluding that the degree was not relevant evidence.

Plaintiff contends that Defendant has not done anything to search for suitable employment. "When either party voluntarily assumes a lower paying job, quits a job, leaves employment, changes occupations or changes employment status to pursue an education, or is fired for cause, there generally will be no effect on the support obligation." Pa.R.C.P. 1910.16-2(d). "A party may not voluntarily reduce his or her income in an attempt to circumvent his support obligation." Grigoruk v. Grigoruk, 912 A.2d 311, 313 (Pa. Super. 2006). When seeking to modify a child support order, "the moving party has the burden of proving by competent evidence that a material and substantial change of circumstances has occurred since the entry of the original or modified support order." Grimes v. Grimes, 596 A.2d 240, 241 (Pa. Super. 1991).

After a careful review of the record, we conclude that Plaintiff has not met her burden of showing that Defendant has refused to obtain employment in order to circumvent his support obligation. Defendant testified that he was starting a full time job, earning $11 per hour, working for general contractor Vincent Roos on September 18, 2009. (N.T. 9/18/09, pg. 12). He also testified that he worked for the Lake Naomi Club earning $10.50 per hour as a cook up until April 2009, and was collecting unemployment after leaving that job. (N.T. 9/18/09, pg. 13, 16). Defendant also worked as a cook at the Black Bread Café prior to the Lake Naomi Club. (N.T. 9/18/09, pg. 16).

While Plaintiff submitted an earnings report (Plaintiff's Exhibit 5) from Lake Naomi showing that Defendant was terminated

for absenteeism, Defendant denied being terminated for absenteeism. (N.T. 9/18/09, pg. 16, 19). He testified that he was released from that job due to concerns about his ability to show up and perform because he got migraine headaches, not because he actually missed work. (N.T. 9/18/09, pg. 19). Defendant believed that the earnings report listed "absenteeism" as the reason for his release because it was "their way of trying to deny you compensation…." (N.T. 9/18/09, pg. 20). Defendant also stated that he has held about ten different jobs over the past ten years. (N.T. 9/18/09, pg. 18). While Defendant admitted that he was "chronically on unemployment" over the past ten years, he also testified that he was trying to find any type of employment over the past 15 years. (N.T. 9/18/09, pg. 18).

Given that the Hearing Officer reduced Defendant's support obligations, it appears that the Hearing Officer found Defendant's testimony regarding his past employment history credible, and did not conclude that Defendant has refused to obtain employment in order to circumvent his support obligation. The record is devoid of any compelling evidence presented by Plaintiff to undermine or question this determination. Thus, the record belies Plaintiff's assertion that Defendant has not done anything to find employment. While the Hearing Officer's report and recommendation is only advisory, "it is to be given the fullest consideration, particularly on the question of credibility of witnesses, because the [Hearing Officer] has the opportunity to observe and assess the behavior and demeanor of the parties." Moran v. Moran, 839 A.2d 1091, 1095 (Pa. Super. 2003). "Great weight must [] be accorded to the findings of the [Hearing Officer] or of the court below where issues of credibility must necessarily be resolved by personal observation." Mintz v. Mintz, 392 A.2d 747, 749 (Pa. Super. 1978). After a careful review of the record, we find no compelling reason to disturb the Hearing Officer's implicit

credibility determination.[4] Accordingly, the Hearing Officer did not err in calculating Defendant's support obligation.

CONCLUSION

For the foregoing reasons, this Court recommends that our Amended Order of May 20, 2010, denying and dismissing Plaintiff's Exceptions to the Domestic Relations Office Hearing Officer's Report dated January 15, 2010, be affirmed.

BY THE COURT:

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Richard W. Webb, S.J.

[4] **A Hearing Officer is not required to make specific findings as to why he credited some testimony, but not other testimony.** Hargrove v. Hargrove, **381 A.2d 143, 147 (Pa. Super. 1977).**