NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

AMY LEE CYMERMAN v. SCOTT ADAM CYMERMAN Appellant	IN THE SUPERIOR COURT OF PENNSYLVANIA No. 35 EDA 2026

Appeal from the Order Entered November 20, 2025
In the Court of Common Pleas of Montgomery County Domestic Relations
at No(s): 2024-DR-00853

BEFORE: PANELLA, P.J.E., STABILE, J., and FORD ELLIOTT, P.J.E.*

MEMORANDUM BY FORD ELLIOTT, P.J.E.: **FILED SEPTEMBER 1, 2026**

Scott Adam Cymerman (Father) appeals from the order of the Court of Common Pleas of Montgomery County, which denied his exceptions to a hearing officer's recommended order in child support and alimony *pendente lite* (APL) and adopted that recommended order as an order of the court.[1] Father challenges the hearing officer's calculation of both his net income and the children's private school tuition. We affirm.

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* Retired Senior Judge assigned to the Superior Court.

[1] The trial court's order allocated both child support and APL, but, on February 17, 2026, this Court entered an order quashing Father's appeal as to the APL portion of the order, leaving unaffected Father's appeal of the child support order. ***See Hrinkevich v. Hrinkevich***, 676 A.2d 237 (Pa. Super. 1996) (noting portion of order as to child support is immediately appealable, but portion of order allocated as to APL is interlocutory and not appealable until entry of divorce decree and resolution of economic claims).

The trial court set forth the factual and procedural history of this case as follows:

> Appellee, Amy L. Cymerman ([M]other)[,] commenced the instant action against [Father] for [APL] and for the support of their two children. A support hearing officer held an evidentiary hearing on August 20, 2025[,] and filed an interim support order on September 9, 2025. Father filed [timely] exceptions that state four claims:
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> > 1. The hearing officer erred in calculating [F]ather's net monthly income by not adopting [F]ather's calculation of his federal individual income tax liability;
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> > 2. [T]he hearing officer erred in requiring [F]ather to pay private school tuition on behalf of both children in an amount totaling more than $20,000[.00];
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> > 3. The hearing officer erred in finding the testimony of [M]other's father (Mark Cedrone, Esquire) to be credible, and therefore erred by not making a downward deviation from the guideline-calculated support payment; and
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> > 4. The hearing officer erred by not calculating the parties' support as though they share equal physical custody, in view of the parties' post[-]hearing agreement that support should be calculated in that manner.
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> The [Court of Common Pleas of Montgomery County] heard oral argument on [F]ather's exceptions as prescribed by [Pennsylvania rule of Civil Procedure] 1910.12(h) and then[, on November 20, 2025,] filed an order denying the exceptions and adopting the interim support order as the final order of the court. Father filed the instant [timely] appeal from that order[on December 16, 2025].

Trial Court Opinion, 12/22/25, at 1-2.

On appeal, Father raises the following issues for our review:

> 1. The trial court erred in accepting the hearing officer's calculations of [Father]'s income.

2. The trial court erred in determining [Father] was required to pay in excess of $20,000[.00] for the children's tuition, despite the recommendation [Father] may be entitled to credits for payments made prior to the parties['] separation.

3. The trial court erred in accepting the hearing officer's miscalculations with respect to [Father]'s post-separation and pre-hearing obligations.

See Father's Brief at 4 (unnecessary capitalization omitted).

Our standard of review of a child support order is well settled:

> When evaluating a support order, this Court may only reverse the trial court's determination where the order cannot be sustained on any valid ground. We will not interfere with the broad discretion afforded the trial court absent an abuse of the discretion or insufficient evidence to sustain the support order. An abuse of discretion is not merely an error of judgment; if, in reaching a conclusion, the court overrides or misapplies the law, or the judgment exercised is shown by the record to be either manifestly unreasonable or the product of partiality, prejudice, bias or ill will, discretion has been abused. In addition, we note that the duty to support one's child is absolute, and the purpose of child support is to promote the child's best interests.

Hall v. Bartron, 321 A.3d 1047, 1053-54 (Pa. Super. 2024) (citations omitted).

In his first issue, Father argues that the hearing officer failed to properly calculate his net monthly income under Pennsylvania Rule of Civil Procedure 1910.16-2 by not deducting appropriate federal, state, local, and self-employment taxes from his gross income. ***See*** Father's Brief at 10. Father asserts that he is an independent contractor paid $100.00 per hour, and using his own calculations based on his Exhibit F-1, Father contends his gross income for 2025 would be approximately $285,000.00, yielding a gross monthly income before taxes of roughly $17,778.50. ***See id.*** at 10-11. After accounting for federal income tax, Social Security, Medicare, Pennsylvania income tax, and local taxes, Father maintains that his net monthly income was significantly below the hearing officer's calculated figure of $15,044.26, which the trial court adopted. ***See id.*** at 12-13. Father admits that he had not yet filed tax returns for the years 2024 and 2025 at the time the court ruled on his exceptions, but Father suggests that the trial court should have required him to file his 2024 tax return by a set deadline and should have scheduled a follow-up hearing if the parties could not stipulate to his income, rather than adopting a calculation that is overstated and results in him overpaying child support. ***See id.*** at 15.

Based on his own revised net monthly income figures, Father also proposes that it is necessary to recalculate his APL, child support, and school tuition obligations. ***See id.*** at 16-17. Father contends his APL obligation should be $1,275.00 per month and his share of child support should be 61%, amounting to $2,074.00 per month, for a combined total of $3,349.00.[2] ***See id.*** at 16. On the issue of school tuition, Father proposes that each party's share be calculated based on the net income remaining to each party after APL and base child support are accounted for, which results in Mother's available funds of $8,249.00 per month and Father's available funds of $7,655.00, necessitating that Mother bear 52% of tuition costs and Father

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[2] We do not reach Father's arguments relating to APL as we already quashed his appeal from the APL portion of the trial court's order. ***See*** Order, 2/17/26.

48%, rather than the 64.5% allocated to Father by the hearing officer. ***See id.*** For periods governed by a 50/50 custody calculation, Father argues that the APL obligation would remain the same, but child support would drop to $1,394.00, for a combined total of $2,669.00. ***See id.*** at 17. Applying the same calculation methodology to those periods, Father proposes his tuition share should be 52%, and Mother's should be 48%.

In his second and third issues which Father presents and we address together, Father contends that the hearing officer wrongly added $20,964.27 to his arrears and wrongly permitted Mother to pay her portion of the tuition using marital assets. First, Father argues that the hearing officer improperly included the tuition contribution for the 2024–2025 school year when that tuition was already paid in full and sourced from marital funds prior to the date of separation and the support filing. ***See id.*** at 18-19. Father argues that the use of marital funds is an equitable distribution issue and that the addition to arrears in this support matter was therefore error. ***See id.*** at 19. Second, with respect to the 2025–2026 tuition, Father argues the hearing officer erred in determining he should pay 64.5% of tuition costs without accounting for the fact that Mother paid a significant portion of that tuition by liquidating her retirement account, which is a marital asset subject to equitable distribution. ***See id.*** at 20. Father proposes that the hearing officer should have applied a deviated percentage, such as 50%, with any additional obligation to be resolved through equitable distribution proceedings. ***See id.***

Mother, in her appellate brief, indicates that, despite the trial court's mischaracterizations to the contrary, the hearing officer properly considered Father's taxes in assessing net income. **See** Mother's Brief at 17 (stating "One only needs to compare the [h]earing [o]fficer's calculation of gross income with the calculation of net monthly income to confirm that significant consideration was given to state and local taxes."). Mother further disagrees with Father that the relevant private school tuition was paid with marital funds, and she concludes that private school tuition is properly considered in this case as a support issue and not one of equitable distribution. ***See id.*** at 22.

In responding to Father's exceptions to the hearing officer's recommendations, the trial court reasoned that Father was not entitled to relief. Specifically, as to Father's net income calculation exception, the trial court identified three arithmetic errors, noting that Father's figure for federal tax on income from $11,601.00 to $47,150.00 should have been $4,265.88, not $5,658.00, and that his figure for tax on income from $191,951.00 to $213,342.00 should have been $7,486.85, not $7,766.85, yielding a corrected total federal tax liability of $45,436.77 per year rather than Father's stated amount of $47,108.89. ***See*** Trial Court Opinion, 12/22/25, at 4. In addition to concluding that Father's calculations were arithmetically unsupported, the court found that Father produced no argument at all with respect to his 2024 income. ***See id.*** The court further held that the hearing officer's decision not to deduct Father's projected, but unpaid, 2024 tax liability was not erroneous as a matter of law where the court reasoned that the support guidelines require income to be calculated from amounts actually received over a six-month or yearly period, implying that only expenses already paid during that same period may be deducted. ***See id.*** at 5. The court noted that the hearing officer expressly declined to subtract the unpaid taxes because she did not believe Father would pay them. ***See id.***

Regarding Father's argument that the hearing officer improperly added the 2024–2025 private school tuition to his arrears, the trial court found no relief due because the order required Father only to pay his share of the 2025–2026 tuition and not the 2024–2025 tuition paid prior to the parties' separation. ***See id.*** at 8. Regarding Father's argument that Mother's use of retirement funds—alleged marital property—to pay the 2025–2026 tuition warranted a reduction in his proportional share, the court concluded that payment of private school tuition is an obligation of child support under Pennsylvania Rule of Civil Procedure 1910.16-6(d)(1), and therefore, the hearing officer correctly treated the ongoing tuition payments as a support matter rather than an equitable distribution matter, regardless of the source of funds Mother used to make the payments. ***See id.*** In the end, the court found that the proper remedy for a claim of wrongful liquidation of marital assets is through an equitable distribution trial in the parties' divorce action, not through an adjustment to the support order. ***See id.***

After our review, initially, we find that the trial court wrongly concluded that it would not be an error of law for the hearing officer to fail to consider taxes owed when calculating Father's net income, ***see*** Pa.R.Civ.P. 1910.16-

2(c)(1)(i); in other words, a calculation of net income for support purposes in any year requires consideration of taxes owed in that year.[3] ***See Murphy v. McDermott***, 979 A.2d 373, 380 (Pa. Super. 2009) (noting that Rule 1910.16-2(c) provides that taxes be deducted from gross income to arrive at net income); ***see also Reisinger v. Reisinger***, 471 A.2d 544, 546 (Pa. Super. 1984) (finding that "If the amount of the award were based on appellee's gross income and then computed using tables designed to be used for 'net income' figures, the resulting award could indeed be [impermissibly] excessive and confiscatory.");[4] ***see id.*** at 547 (observing that "Fashioning support awards without taking into account their tax consequences amounts to making calculations based on false data."). Further, contrary to the trial court's conclusion, we observe that taxes should be factored into the net income calculation for support purposes for the year in which the income applies, no matter what year the relevant taxes are paid. ***See Spahr v. Spahr***, 869 A.2d 548, 553 (Pa. Super. 2005) (quoting approvingly of trial court's statement that "all taxes connected to one year of income are calculated for that year,

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[3] We have previously observed that "taxable income is not the same as net income for support purposes. This is so because tax law contains many preferences that have no relationship to the parties' support obligation." ***Portugal v. Portugal***, 798 A.2d 246, 253 n.2 (Pa. Super. 2002) (citations omitted). Indeed, "the law of child support recognizes that the financial picture depicted on a tax return does not always reflect actual dollars available to the obligor." ***Hall***, 321 A.3d at 1056.

[4] Excessive and confiscatory support awards are an abuse of trial court discretion. ***See D.H. v. R.H.***, 900 A.2d 922, 929 (Pa. Super. 2006).

no matter when paid. To do otherwise would allow serious manipulation of yearly income.").[5] In reaching our determination, we note that the court must consider relevant taxes when calculating net income, but the court is not required to accept Father's calculations, so long as its own calculations are supported in the record and law. ***See Hall***, 321 A.3d 1053-54 (setting forth appropriate standard of review); ***see also Smith v. Smith***, 426 A.2d 1184, 1187 (Pa. Super. 1981) (stating "When a defendant operates a business of his own, it is frequently difficult to determine his actual income. The court need not accept as accurate the testimony of the defendant or the financial record of his accountant made from information furnished by the defendant. It could make its own deductions from the evidence and the accompanying circumstances.") (citations omitted).

Next, we agree with Mother insofar as we conclude that the trial court mischaracterizes the record where a close reading of the hearing officer's report reveals that Father's claimed corporate tax and accounting fees were disallowed, not the consideration of all tax consequences in Father's net income calculations. ***See*** Hearing Officer's Report, 9/9/25, at 1 (concluding that "It should be noted [that] also included on [Exhibit F-1] are corporate tax and accounting fees due [from] 2024 in the total amount of approximately

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[5] Nevertheless, courts will not permit parties to overpay taxes to exclude funds from income. ***See Parkinson v. Parkinson***, 512 A.2d 20, 21 (Pa. Super. 1986). Further, federal and tax definitions of income do not control income calculations in support matters. ***See Darby v. Darby***, 686 A.2d 1346, 1348-49 (Pa. Super. 1996).

$3,000.00. These will not be deducted as the undersigned [hearing officer] is not confident these will actually get paid. When and if Father settles up with the IRS, these payments can be addressed in [e]quitable [d]istribution.”). Importantly, contrary to the trial court’s finding and Father’s claims, we observe that the hearing officer properly considered taxes owed in calculating Father’s net income. ***See id.*** at 4 (“For 2024, [Father]’s income with a Federal Income Tax filing status [“]Married Filing Separately[,”] claiming one child with the deduction of self-employment tax results in a SupportCalc[6] calculated net monthly income equal to $14,181.48. For 2025, [Father]’s income with a Federal Income Tax filing status [“]Married Filing Separately[,”] claiming one child with the deduction of self-employment tax results in a SupportCalc calculated net monthly income equal to $15,044.26.”). We must further note that courts have discretion to order credits for overpayments and implement arrears when compensating parties for support imbalances. ***See Portugal v. Portugal***, 798 A.2d 246, 255 (Pa. Super. 2002) (noting courts have broad discretionary power to remit accrued support arrearages and remedy overpayments with monthly credit). As we discern a valid basis for affirming the hearing officer’s net income calculation, we conclude no relief is due on Father’s first issue (and by extension, no relief is due on his related

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[6] The SupportCalc calculator can be located at https://www.humanservices.dhs.pa.gov/CSWS/CSWS_controller.aspx?SelectionIdBottom=7&PageId=CSWS/support_estimator_entry_form.ascx. (accessed 8/17/26).

derivative claims that the child support or private school tuition apportionment calculations must be recalculated based on his recalculated net income). ***See Hall***, 321 A.3d at 1053-54.

As it relates to Father's claims regarding the propriety of Mother's payments of the private school tuition, Father does not argue that the private schools selected for children are unreasonable, inappropriate, or that the children will not benefit therefrom;[7] instead, Father merely takes issue with the alleged source—marital funds—of Mother's payments of the tuition. ***See Murphy***, 979 A.2d at 377 (stating "We are to uphold the trial court's decision to order private school contributions so long as the court did not abuse its discretion in determining that: (1) the child will 'benefit,' and (2) private schooling is consistent with the family's prior standard of living and station in life."). On this record, as Father does not dispute the order for him to pay his share of the private school tuition (neither challenging the order as to benefits to the children nor regarding family standard of living) and we have affirmed

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[7] Our standard of review of an order directing a party to pay for a minor child's private school involves an inquiry into:

> whether the cost of private schooling is a reasonable need of the child and a reasonable expectation and expense of the parents. In determining if the need is reasonable, the court must determine if the child will benefit from private schooling. In addition[,] the court must determine if private schooling is consistent with the family's standard of living and station in life before the separation.

Francis v. Francis, 517 A.2d 997, 1000 (Pa. Super. 1986).

the trial court's adoption of the hearing officer's calculation of Father's net income, we discern no basis for reversing the order requiring Father to pay his share of the private school tuition. ***See id.***; ***see also Francis v. Francis***, 517 A.2d 997, 1000 (Pa. Super. 1986). In reaching our conclusion, we specifically agree with Mother that an order directing payment of private school tuition for the children is properly an aspect of this support action and is properly a subject of this appeal. ***See Murphy***, 979 A.2d at 377; ***Francis***, 517 A.2d at 1000; Pa.R.Civ.P. 1910.16-6(d)(1).

Nevertheless, we defer consideration of Father's claims relating to the alleged improper marital source of Mother's payments for the children's private school tuition because those claims sound in equitable distribution of the parties' marital property—claims we may not review until the court enters a final order thereon. ***See Schultz v. Schultz***, 70 A.3d 826, 829 (Pa. Super. 2013) (noting that "absent a final equitable distribution order, issues of equitable distribution are not properly raised on appeal"); ***see also Wilson v. Wilson***, 828 A.2d 376, 378 (Pa. Super. 2003) ("[A] pre-divorce decree distributing marital property is interlocutory. It cannot be reviewed until it has been rendered final by the entry of a decree in divorce.") (citations omitted); ***Caplan v. Caplan***, 713 A.2d 674, 676 (Pa. Super. 1998) (stating general rule that "all economic matters may be dealt with in an appeal from a final order of equitable distribution, and any error can be corrected on appeal”). Accordingly, Father is not entitled to any relief on his remaining issues in this appeal.[8]

Order affirmed.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 9/1/2026

[8] Father concedes that marital property claims concern equitable distribution. ***See*** Father’s Brief at 19 (stating “the tuition was paid with marital funds and is an issue for equitable distribution”); ***see id.*** at 22 (requesting relief in form that “[a]ny monies paid by [Mother] through marital funds and her desire for reimbursement from [Father] shall be dealt with in equitable distribution”).