

Massengill v. Massengill
Superior Court of Pennsylvania
No.: 958 EDA 2018
2020 Pa. Super.
May 19, 2020
Opinion by: Bowes

In *Massengill v. Massengill*, the Superior Court, in a Non-Precedential Memorandum Decision, vacated the trial court's order to amend the alimony terms of the parties' Agreement because the language in the Agreement was clear and unambiguous.

Husband and Wife entered into an Agreement which contained provisions regarding alimony payable to Wife, the marital residence, retirement accounts and personal property. The terms of the Agreement were expressly incorporated, but not merged, into the divorce decree.

Husband agreed to pay alimony indefinitely. He was a broker and his monthly income, including commissions, varied widely from month-to-month. In order to accommodate the volatility in his earnings, the Agreement contained a formula for calculating the amount of alimony due annually. The Agreement further provided that Husband would retain exclusive possession of the marital residence.

The trial court refused to enforce the Agreement's definition of "income" as net earned income, but insisted that such a definition "clearly contradicted the statutory language and intent of the Divorce Code."

The Court held that the alimony provision was unambiguous and enforceable as written. The Court also found that any benefit to Husband from living in the marital residence expense-free was not income to Husband for purposes of calculating alimony, and the trial court erred in considering it in ordering the amount of alimony. In addition, the Court held that the trial court could not order Husband to vacate and lease out the marital home in order to realize rental income that the court would then treat as income to Husband for purposes of calculating alimony.

Massengill v. Massengill, Memorandum Decision, No. 958 EDA 2018 (Pa. Super. May 19, 2020).

M.G.P. v. J.L.G.
Superior Court of Pennsylvania
No: 1364 MDA 2019
2020 Pa.Super.
May 18, 2020
Opinion by: Kunselman

In *M.G.P. v. J.L.G.*, the Superior Court, in a Non-Precedential Memorandum Decision, held that mother's structured settlement payments should have been treated as net income available for support (NIAS) even though the settlement predated the birth of the parties' children and some of the payments were used for medical expenses.

Mother received a monthly settlement payment of \$1,000. Mother testified that the settlement compensated her for the loss of her leg when she was a child. She also explained that she applies some payments towards her medical expenses not covered by insurance, such as for her prosthetic.

Specifically, father contended that the master and the trial court miscalculated the support obligation by failing to consider mother's structured settlement payments as income, in violation of Pa.R.Civ.P. 1910.16-2(a)(8)(iii)-(v).

The Superior Court agreed and remanded for a recalculation. The Court found that mother's structured settlement payments should have been included as NIAS.

In the Interest of: T.M.W.
Superior Court of Pennsylvania
2020 Pa. Super. 122
May 20, 2020
Opinion by: Lazarus

In *In the Interest of: T.M.W.*, the trial court ordered Mother's parental rights to be terminated and the child to be placed for adoption. The Superior Court vacated and remanded to the trial court.

The Department of Human Services (DHS) became involved with Mother and child when it was discovered the child lived in deplorable conditions and wasn't receiving medical treatment. The trial court ordered twice-weekly supervised visits and Mother to undergo psychological evaluation. Despite Mother attending every twice-weekly visit and receiving mental health treatment, DHS petitioned to involuntarily terminate Mother's rights and place the child for adoption.

The Superior Court reversed the trial court's order because the court's findings were unsupported by the evidence. The Court found that 1) DHS did not make reasonable efforts to return the child to Mother; 2) the trial court did not consider whether mother complied with the family service plan goals; 3) the court rushed to change the child's permanency goal despite Mother's efforts and what was in the best interest of the child; 4) the family was not provided with the services necessary to achieve reunification in the set time frames; and 5) the court ordered Mother to discuss bug delusions in her therapy session, despite never being ordered to do so. The case was remanded for entry of a new permanency order with the goal of reunification or adoption.