

B.S.G. v. D.M.C.,
Superior Court of Pennsylvania
No.: 2000 EDA 2020
2021 Pa.Super.
May 27, 2021
Before: Bowes, Dubow, Stevens
Opinion by: Stevens

In *B.S.G. v. D.M.C.* the Superior Court reiterated the proposition set forth in *Hill v. Hill* that, in shared legal custody, a court may not give one parent power to override parental disagreements without undoing a shared custody status.

The trial court had previously awarded shared legal and physical custody to the parties. Father filed petitions for contempt and mother cross-petitioned to modify custody.

The trial court found that the parties remained unable to communicate with one another and agree on decisions concerning their child. The trial court therefore entered an order denying the contempt petitions and continuing the shared legal and physical custody arrangement, with modification that granted mother exclusive authority to determine what school the parties' child would attend if the child was not accepted into the school the parties had agreed upon. Mother was also granted the authority to choose a pediatrician and therapist for the child, while father would choose a dentist.

Father appealed, arguing that the trial court's order giving exclusive power to mother to choose the child's school, pediatrician, and therapist, and to father to choose the child's dentist, contravened Superior Court precedent prohibiting the conferral of exclusive decision-making power to one parent where there exists shared legal custody, citing *Hill v. Hill*, 619 A.2d 1086 (Pa. Super. 1993).

The Superior Court rejected father's argument and affirmed the trial court's order. The Court disagreed with father's position that *Hill* altogether forecloses a court's exercise of discretion to give final decision-making power to one parent over certain limited choices to be made in a child's life, where, as here, the record established that the parents had effectively reached impasse on such matters.

Jordan v. Jordan
Superior Court of Pennsylvania
No.: 827 WDA 2020
2021 Pa.Super.
May 11, 2021
Before: Shogan, Dubow, King
Opinion by: Shogan

In *Jordan v. Jordan*, the Superior Court affirmed the trial court's denial of father's claim for attorneys' fees.

The Master's Report contained, among other things, the following recommendation regarding attorney fees: "In light of the availability to husband of liquid assets, the Master recommends that the parties each pay their own attorney fees and that they share equally in the Master's fee and the costs of the hearing." Husband appealed.

The Superior Court affirmed. The Court acknowledged that neither husband nor wife was in a great financial position. Husband was living on social security disability payments and alimony and wife was working, paying alimony and paying the majority of the debt from the marriage. Husband testified that he did not have enough money to cover his expenses and wife testified that she was working overtime. The Court found that wife and husband were on par with each other financially and that both were barely making ends meet every month. For this reason, the Court agreed with the trial court and the Master's recommendation to deny husband's request for counsel fees and expenses.

Pelissero v. Pelissero, Appeal Of: Peter J. Daley, II
Superior Court of Pennsylvania
No.: 588 WDA 2020
2021 Pa. Super.
March 2, 2021
Before: Olson, Dubow, Stevens
Opinion by: Olson

This Superior Court decision has some teeth. No shows beware! In *Pelissero v. Pelissero, Appeal Of: Peter J. Daley, II*, the Superior Court affirmed the trial court's imposition of sanctions on an attorney for his failure to appear at a scheduled custody hearing before a Child Custody Conference Officer (CCCO).

Father and mother were the biological parents of the child. Grandmother was the paternal grandmother of the child. Father filed a complaint seeking expansion of his custodial time. CCCO Amanda Fisher, Esq. scheduled a custody hearing on March 9, 2020.

On March 2, 2020, CCCO Fisher, emailed all counsel about pending criminal charges against Father and asked counsel if they wished to proceed on the scheduled date. Attorney Daley, for Mother, objected to the March 9 hearing due to the unresolved criminal charges still pending against Father. CCCO Fisher advised all counsel by email on March 4 that the hearing would proceed. Attorney Daley did not file a motion to continue the hearing. He claimed he instructed a staff member to contact the Washington County custody office to advise that a scheduling conflict would prevent him from appearing at the March 9 hearing. At the direction of the custody office, Attorney Daley's staff then unsuccessfully attempted to contact CCCO Fisher about the conflict. In addition, also on March 4, Attorney Daley circulated, but did not file, a motion to withdraw as counsel for mother, which he planned to present on March 11.

On March 9, 2020, all parties and all counsel, except Attorney Daley, appeared for the custody hearing before CCCO Fisher. In view of Attorney Daley's absence, CCCO Fisher declined to proceed with the hearing.

Counsel for Grandmother filed a motion for sanctions for Attorney Daley's failure to appear at the hearing. Counsel for Grandmother and Father explained to the court that their respective clients were inconvenienced and incurred unnecessary expenses and legal fees. The trial court ordered Attorney Daley to pay \$1,051 to counsel for grandmother's unnecessary expenditures and to pay \$250 to counsel for expenses incurred by father. Attorney Daley appealed, arguing that the trial court abused its discretion and erred as a matter of law by issuing an order granting a motion for sanctions without specificity by not setting forth specific reasons for its decision.

The Superior Court affirmed. The Court noted that §2503(7) of the Judicial Code provides that a participant in a legal proceeding may be awarded counsel fees as a sanction against another participant for dilatory, obdurate or vexatious conduct during the pendency of a matter, 42 Pa.C.S. §2503(7). The Court noted that the record reflected the trial court's explanation that it imposed sanctions as a result of Attorney Daley's actions surrounding the March 9, 2020 hearing, as established at the May 1, 2020 sanctions hearing. Because the trial court addressed

the substance of Attorney Daley's claim, the Court concluded that there were no grounds for finding an error or abuse of discretion by the trial court.