E.A.-D. v. I.S.C.,
Superior Court of Pennsylvania
No.: 362 WDA 2020
2020 Pa.Super.
December 24, 2020
Before: Bender, McLaughlin, Musmanno
Opinion by: Musmanno

Mother filed a Petition to Relocate with the parties' child from Pennsylvania to Virginia and requested primary physical custody. The trial court entered an order granting Mother's request to relocate and awarding shared legal custody and shared physical custody on an alternating monthly basis until August 2020 and primary physical custody with Father during the summers. The trial court did not state which custody factors it used to award custody on the record or in an opinion. Father filed his Notice of Appeal, on the 30th day, of the Relocation Order despite not knowing the trial court's basis for its decision. Several weeks later the trial court issued its opinion, which explained the custody factors used and the basis for its decision.

Father appealed the trial court's order because the deadline to submit his appeal was due by March 5, 2020 and the trial court did not submit its opinion until March 31, 2020. Therefore, Father was not able to address the trial court's decision.

The Superior Court agreed with Father, vacated the order and remanded. The Court noted the trial court did not address any factors or relocation factors at any point during the hearings or after issuance of the Order. 23 Pa.C.S. §5323(d) requires the trial court to set forth its assessment of the 16 custody factors prior to the deadline by which a litigant must file a Notice of Appeal. The Court recognized that the trial court filed an opinion, which did provide an explanation and analysis of the custody and relocation factors, but it was filed after the 30-day deadline. Father was forced to file his Notice of Appeal blind. The Court vacated the trial court's order, remanded the case for further proceedings and directed the court to consider the custody factors on the record or in an opinion.

Goodwin v. Goodwin
Superior Court of Pennsylvania
No.: 2338 EDA 2019
2020 Pa.Super.
December 14, 2020
Before: Bowes, McCaffery, Elliott
Opinion by: Elliott

This case is a good example of the aphorism, "Pigs get fed, and hogs get slaughtered."

Wife and Husband separated four months after Wife's son died. Wife's son had life insurance policies and IRA accounts. Wife was the sole beneficiary on his accounts. Wife used portions of son's estate to purchase her own house. The trial court determined the life insurance proceeds and IRA funds were not marital assets and any investments or property she purchased with the proceeds from her son's estate were not marital property or assets. Husband appealed the trial court's decisions and argued the life insurance proceeds were marital property. The Superior Court affirmed the trial court's decision, but for different reasons than expressed by the trial court.

Wife had a son from a previous relationship. Wife and Husband married when her son was three years old. Husband never adopted the child. Wife's son died intestate. He had four life insurance policies through work, which totaled $633,302. Wife was the sole beneficiary on all of son's policies. Wife placed the funds into her own accounts and purchased a home in her sole name.

The Superior Court found the life insurance and IRA proceeds were gifts within the meaning of 23 PA.C.S. §3501(a)(3). Son used his own funds to pay for the insurance policies and to make deposits into his IRA. Wife received the life insurance and IRA proceeds before and after the parties' separated. The funds were not placed into a joint account, but instead in Wife's solely owned accounts. When life insurance policies or IRAs name only one beneficiary, the proceeds to the sole beneficiary are gifts, which vest at the time of death. The son made his intent clear when he opted against selecting a co-beneficiary or contingent beneficiary.

The Court reviewed rulings in other states and those states all held that insurance proceeds were gifts and the non-commingled property in question was not marital property. The Court held this situation fell within the exceptions delineated in 23 PA.C.S. §3501(a)(3).

Wean v. Wean
C.P. Monroe County
No.: 1190 DR 2008
October 24, 2019
Before: Higgins

Wife and Husband appeared before a Master in Equitable Distribution. The Master determined Husband owed Wife a cash payment of $255,409 and awarded her $10,000 in attorney fees. Wife asked to receive personal property instead of the cash payment because she did not believe Husband would provide her with the payments within the court-ordered timeline. Wife also sought an increase in the award of attorney fees. The trial court rejected Wife's requests.

Wife filed for divorce on September 19, 2013. This divorce was prolonged by the major discrepancies of opinion of the value of Husband's business. Wife had $140,000 in outstanding counsel fees and an additional $50,000 in expert fees. Wife would receive $1,351,502 in equitable distribution. Husband was directed to give Wife $255,409 in cash. Wife requested two IRA accounts, a grandfather clock and a Polaris 600 with snowplow instead of the cash payment.

The trial court rejected Wife's proposition because it did not have legal authority to distribute the marital estate in this manner. Potential nonpayment is not a relevant factor in determining equitable distribution. The trial court agreed with the Master's decision in awarding $10,000 in counsel fees to Wife. Wife would receive $1,351,502 in equitable distribution, $255,409 in cash and $10,000 in counsel fees. Wife had the means to pay her remaining counsel and expert fees. The court determined Husband's share in equitable distribution would give him the ability to contribute $10,000 in counsel fees to Wife. The trial court affirmed the Master's decision.