

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2007-0919, In the Matter of Deborah M. Riso and Gregory R. Riso, the court on October 28, 2008, issued the following order:

The respondent, Gregory R. Riso, appeals an order of the trial court addressing various pleadings filed in this post-divorce proceeding. He argues that the court erred in: (1) ordering him to pay for his child's health insurance plus one half of her uncovered medical expenses while she is in college; (2) ruling upon the petition for contempt filed by the petitioner, Deborah M. Riso, despite her failure to provide a copy of the petition to him; and (3) denying his request to assign the case to a judge. We affirm in part, reverse in part and remand.

On appeal, we will affirm the findings and rulings of the trial court unless they are unsupported by the evidence or legally erroneous. In the Matter of Cole & Ford, 156 N.H. 609, 610 (2007). We will set aside a modification order only if it clearly appears from the evidence that the trial court's exercise of discretion was unsustainable. Id.

The respondent first argues that the trial court erred in ordering him to pay for his child's health insurance plus one half of the uncovered medical expenses while she is in college. In its order, the trial court stated: "Until Respondent finds employment, the Court finds that his responsibility to contribute to the middle child's college education is, for the moment, satisfied by payment of the cost of providing health insurance for her and paying for 50% of any uncovered or uninsured health care expenses." The parties do not dispute that the college requires health insurance coverage of its students. In this case, the student is covered by an insurance plan provided by the petitioner's employer that is less expensive than that offered by the school; the school has accepted this coverage to satisfy its requirement. Because it is a required condition for attendance, see In the Matter of Gilmore & Gilmore, 148 N.H. 111, 114 (2002), we conclude that under the unique facts of this case, the trial court did not err in requiring the respondent to pay the cost of the health insurance. The same cannot be said for the uncovered or uninsured health care expenses. Because payment of these expenses need not be guaranteed as a precondition of attendance, the trial court erred in including this as part of the respondent's obligation to contribute to his daughter's college education. See id.

The respondent also argues that the trial court erred in ruling upon a petition for contempt filed by the petitioner. The transcript of the trial court hearing indicates that the respondent did not object to consideration of evidence relating to the contempt petition. Our general rule is that issues must be raised

at the earliest possible time to give trial courts a full opportunity to come to sound conclusions and correct alleged errors in the first instance. In the Matter of Peirano & Larsen, 155 N.H. 738, 744 (2007). The respondent conceded in his motion for reconsideration that he was aware of the petition for contempt at the hearing; the referee also cited it during the hearing. In the absence of a timely objection to its consideration, we decline to consider this issue on appeal. See id. at 744-45 (recognizing general principle that rules of preservation are not relaxed for pro se litigants).

The respondent also argues that the trial court erred in denying his request to assign the matter to a judge. When asked at the hearing to explain the reason for his request, the respondent cited prior adverse rulings. “Adverse rulings against [a party] in the same or a prior judicial proceeding do not render the judge biased.” State v. Bader, 148 N.H. 265, 271 (2002) (quotations omitted). Moreover, one-sided personal criticism of a judge by a party does not equate to personal criticism of the party by the judge; nor is a judge’s belief that a pleading filed by a party contains misstatements equivalent to a showing of personal hostility towards the party. See id. We note also that the respondent’s assertion in his brief that the referee “refused to hear testimony from [his] current wife” is belied by the record. Having reviewed the record before us, we find no error in the denial of the respondent’s motion.

Affirmed in part; reversed in part;
and remanded.

DALIANIS, DUGGAN and GALWAY, JJ., concurred.

**Eileen Fox,
Clerk**