

STATE OF MICHIGAN
COURT OF APPEALS

RICKY LEE GATES,

Plaintiff-Appellee,

v

JEANNÉ MARIE GATES,

Defendant-Appellant.

FOR PUBLICATION

May 1, 2003

9:00 a.m.

No. 236158

Branch Circuit Court

LC No. 99-005339-DM

Updated Copy

June 20, 2003

Before: Schuette, P.J., and Sawyer and Wilder, JJ.

SAWYER, J. (*concurring in part and dissenting in part*).

I respectfully dissent from that portion of the majority's decision that would reverse the trial court on the issues of alimony and attorney fees. As the majority acknowledged, we review the alimony award to determine if it is fair and equitable in light of the facts of the case and we should not reverse unless we are left with a firm conviction that the award is inequitable. See *Sparks v Sparks*, 440 Mich 141, 152; 485 NW2d 893 (1992). I am satisfied that the trial court properly handled this issue and I am not left with a firm conviction that the award is inequitable.

As for the award of attorney fees, we review the trial court's decision for an abuse of discretion. *Kosch v Kosch*, 233 Mich App 346, 354; 592 NW2d 434 (1999). To be an abuse of discretion, "the result must be so palpably and grossly violative of fact and logic that it evidences not the exercise of will but perversity of will, not the exercise of judgment but defiance thereof, not the exercise of reason but rather of passion or bias." *Spalding v Spalding*, 355 Mich 382, 384-385; 94 NW2d 810 (1959). The trial court's decision here was not palpably and grossly violative of fact and logic, it was not a perversity of will, it was not the defiance of judgment and it most certainly was not the exercise of passion or bias. Accordingly, I would affirm the trial court on this issue.

For the above reasons, I would affirm the trial court on all issues.

/s/ David H. Sawyer