

STATE OF MICHIGAN  
COURT OF APPEALS

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LYDIA PELLERITO,

Plaintiff-Appellee,

v

FILIPPO PELLERITO,

Defendant-Appellant.

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UNPUBLISHED

March 4, 1997

No. 182442

Macomb Circuit Court

LC No. 92-004184 DO

Before: Corrigan, C.J., and Doctoroff and R.R. Lamb,\* JJ.

PER CURIAM.

Defendant appeals as of right from the trial court's August 29, 1994, judgment of divorce. Defendant contends that he should be awarded \$49,500 in funds allegedly concealed by plaintiff. We affirm.

Defendant first argues that the trial court erred in finding that the evidence was not sufficient to support defendant's contention that plaintiff concealed assets. However, defendant has waived this issue by failing to provide this Court with a complete lower court record. The appellant must provide this Court with the lower court record by filing all transcripts and all exhibits unless excused by order or stipulation from providing the complete record. MCR 7.210(B)(1)(a); MCR 7.210(C); *Admiral Insurance Company v Columbia Casualty Insurance Company*, 194 Mich App 300, 305; 486 NW2d 351 (1992). In the instant case, defendant failed to file certain bank records that were admitted into evidence at trial as defendant's exhibit five and defendant's exhibit nine, and thereafter failed to respond to this Court's explicit request for the missing exhibits. Defendant also failed to provide this Court with the transcript of the second day of trial. The missing bank records are necessary for this Court to meaningfully review this issue. Thus, this issue is waived because appellant did not provide this Court with the record necessary for review. *Baker v Wayne Co Rd Comm'rs*, 185 Mich App 82, 85; 460 NW2d 566 (1990).

Defendant next argues that the trial court erred in refusing to sanction plaintiff for failing to comply with the court's discovery orders. We disagree. A trial court's decision to impose discovery

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\* Circuit judge, sitting on the Court of Appeals by assignment.

sanctions is reviewed for an abuse of discretion. *Richardson v Ryder Truck Rental, Inc*, 213 Mich App 447, 450-451; 540 NW2d 696 (1995). An abuse of discretion only exists if a result so violates fact and logic that it constitutes a perversity of will, a defiance of judgment, or an exercise of passion or bias. *Wojas v Rosati*, 182 Mich App 477, 480; 452 NW2d 864 (1990). To determine whether to impose sanctions for violation of a discovery order, the court should consider: 1) whether the violation was willful or accidental, 2) the party's history of refusing to comply with discovery requests, 3) the prejudice to the defendant, 4) whether the party has a history of engaging in deliberate delay, 5) the degree of compliance by the party with other provisions of the court's order, and 6) an attempt by the party to cure the defect. *Richardson, supra*.

The record does not clearly establish whether plaintiff's failure to comply with discovery requests was willful or whether her evasiveness resulted, at least in part, from her apparent difficulty with the English language. Furthermore, plaintiff eventually submitted several bank statements, which defendant presented at trial to support his case. Under these circumstances, we cannot conclude that the trial court's decision not to impose discovery sanctions on plaintiff constituted an abuse of discretion.

Affirmed.

/s/ Maura D. Corrigan  
/s/ Martin M. Doctoroff  
/s/ Richard R. Lamb