

STATE OF MICHIGAN
COURT OF APPEALS

JEANNIE LYNN DANHOF,

Plaintiff-Appellee,

v

ROBERT BRUCE DANHOF,

Defendant-Appellant.

UNPUBLISHED

June 6, 2000

No. 219233

Muskegon Circuit Court

LC No. 98-000634-DO

Before: Hoekstra, P.J., and Holbrook, Jr. and Zahra, JJ.

MEMORANDUM.

Defendant appeals as of right the judgment of divorce entered by the trial court. We affirm.

The parties were married for two separate periods. They first married in 1977, and were divorced in 1985. They continued to live together without any significant changes, and remarried in January 1993. The second complaint for divorce was filed on March 6, 1998.

On appeal, defendant argues that the court erred in including pension benefits and deferred compensation earned between the marriages as part of the marital estate.

Pension benefits accrued before a marriage may be the subject of a division of property in divorce. *Booth v Booth*, 194 Mich App 284, 290-291; 486 NW2d 116 (1992). The trial court may include these benefits if it finds that such treatment is just and reasonable, considering the ability of either party to pay, the character and situation of the parties, and all other circumstances. *Id* at 291.

In order to ensure that equity is done, the trial court's discretion cannot be unduly restricted with regard to the distribution of assets, including premarriage and postdivorce pension contributions. *Boonstra v Boonstra*, 209 Mich App 558, 563; 531 NW2d 777 (1995). Where parties have been married more than once, it is within the court's discretion to divide assets based on the total accumulation of benefits. *McMichael v McMichael*, 217 Mich App 723, 728-732; 552 NW2d 688 (1996).

Defendant has failed to establish that the trial court erred in finding it just and equitable to include the entirety of defendant's pension and deferred compensation benefits as part of the marital estate. The parties functioned as a single economic unit continually since 1977. Considering the circumstances of the case, where defendant's earnings were significantly higher than plaintiff's, he had a pension, and his deferred compensation account had significantly greater value than hers, there is no showing that the court erred in finding that inclusion was just and reasonable.

Affirmed.

/s/ Joel P. Hoekstra

/s/ Donald E. Holbrook, Jr.

/s/ Brian K. Zahra