STATE OF MICHIGAN

COURT OF APPEALS

DARYL L. SHAUGER, Plaintiff-Appellant,	UNPUBLISHED August 29, 2000
v	No. 203010 Saginaw Circuit Court
DONNA M. SHAUGER, Defendant-Appellee.	LC No. 94-005139-DO AFTER REMAND

Before: Cavanagh, P.J., and MacKenzie and McDonald, JJ.

PER CURIAM.

This case is before this Court for the second time. In *Shauger v Shauger*, unpublished opinion per curiam of the Court of Appeals, decided April 20, 1999, we remanded for further findings of fact and for a corresponding reconsideration of the alimony award. We now reverse.

In addition to each party's fault in causing the divorce, the factors relevant to an alimony determination are:

> (1) the past relations and conduct of the parties, (2) the length of the marriage, (3) the abilities of the parties to work, (4) the source and amount of property awarded to the parties, (5) the parties' ages, (6) the abilities of the parties to pay alimony, (7) the present situation of the parties, (8) the needs of the parties, (9) the parties' health, (10) the prior standard of living of the parties and whether either is responsible for the support of others, (11) contributions of the parties to the joint estate, and (12) general principles of equity. [*Thames v Thames*, 191 Mich App 299, 308; 477 NW2d 496 (1991).]

A court is to make specific findings with regard to each factor that is relevant in a particular case. *Ianitelli v Ianitelli*, 199 Mich App 641, 643; 502 NW2d 691 (1993); see also *Daniels v Daniels*, 165 Mich App 726, 732; 418 NW2d 924 (1988), and MCR 2.517. We remanded this case to the trial court for further findings of fact regarding factors (3), (5), (6), (8), and (10). Plaintiff argues that the trial court failed to adequately address these factors and the issues of fault and imputed income on remand. This Court reviews findings of fact regarding the award of alimony for clear error and

dispositional rulings are to be upheld unless we are left with a firm conviction that the decision was inequitable. *Wiley v Wiley*, 214 Mich App 614, 615; 543 NW2d 64 (1995).

We agree with the trial court's finding that factor (10), the prior standard of living of the parties, is not relevant in this case due to plaintiff's concession at trial that $1,460 per month is a fair amount for defendant to survive on. We further find no error in the trial court's failure to address the issue of fault in this case because the record contains no evidence of either party's fault in causing the divorce. However, after reviewing the record, we conclude that the trial court's findings regarding factors (3), (5), (6), and (8) were clearly erroneous.

With regard to factor (3), the abilities of the parties to work, the court concluded that defendant would not be able to work part-time because of her heart problems and the side effects of the medication she was taking. It is evident that defendant does have health problems and that her medication causes her to have a dry mouth and dizzy spells. However, the record indicates that defendant worked part-time as a dental assistant during the ten years preceding the trial, even though she had an ongoing heart condition for eight of those years. Nothing in the record suggests that the heart condition or the side effects from the medication worsened to the point that defendant could not work at all. Defendant herself admitted at trial that she was able to work part-time. We further note that a job in defendant's field of training would not require her to speak at length as she did at trial. Therefore, we conclude that the trial court clearly erred in holding that defendant was not able to work part-time and failing to impute some income to defendant.

Regarding factor (5), the parties' ages, the trial court stated that it believed defendant's age was relevant "in that she is in the middle of her life and, with her attendant health problems, will most likely decline with years due to her chronic heart condition." This finding was clearly erroneous because there was nothing in the record to suggest that defendant's condition would worsen with age. The court's finding was mere conjecture.

With regard to factors (6) and (8), the abilities of the parties to pay alimony and the needs of the parties, the trial court stated that plaintiff earned $71,400 in 1995, that overtime was still available to plaintiff, and that he planned on working six days a week. The court also mentioned that plaintiff conceded that $1,460 per month was a fair amount for defendant to survive on and that $250 a week was a reasonable amount of alimony. The court also believed that plaintiff "inflated" the estimate of his needs at $3,242 per month. The court finally noted that within six months of the trial plaintiff would no longer need to pay for his daughter's schooling and concluded that the alimony award of $300 per week was reasonable and that plaintiff had the ability to pay that amount. Once again, we find that the trial court clearly erred in its findings and conclusions. Although plaintiff agreed that $1,460 per month was a fair amount for defendant to survive on and that $250 per week was a reasonable amount of alimony, plaintiff did not agree that the court's award of $300 per week was reasonable. Furthermore, although plaintiff's monthly needs appear to be much higher than defendant's, we note that plaintiff included defendant's support in his needs and also included items that he pays for both himself and defendant. Finally, the court's award failed to take plaintiff's salary decrease into consideration and would require plaintiff to work a substantial amount of overtime, which is no longer guaranteed to be available to plaintiff, to keep from going further into debt.

Therefore, we conclude that the trial court's findings were clearly erroneous and after reviewing the entire record we are left with a firm conviction that the alimony award of $300 per week was excessive and inequitable. We order that the alimony award be reduced to $250 per week for the remaining period of the ten years ordered by the trial court.

Reversed. We do not retain jurisdiction.

/s/ Mark J. Cavanagh
/s/ Barbara B. MacKenzie
/s/ Gary R. McDonald