

S T A T E O F M I C H I G A N
C O U R T O F A P P E A L S

SALLY JANE MCLOUTH,

Plaintiff-Appellee,

v

GORDON LEE MCLOUTH,

Defendant-Appellant.

UNPUBLISHED

July 10, 2001

No. 224176

Muskegon Circuit Court

Family Division

LC No. 97-234566-DO

Before: Saad, P.J., and Holbrook, Jr., and Murphy, JJ.

PER CURIAM.

Defendant appeals as of right from the parties' judgment of divorce. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff and defendant were married in 1959. Defendant worked for DuPont, and was the family's primary wage earner. Plaintiff was the primary caretaker of the couple's four children, and did not work outside the home to a significant degree during the early years of the marriage. In 1975 plaintiff became employed by the Montague Public School System. In 1986 plaintiff became a licensed stock broker. The parties' marriage ended in 1999. The family court concluded that the breakdown of the marriage could not be attributed to either party. The court ordered defendant to pay plaintiff spousal support in the amount of \$60 per week for four years. The court found that while both parties were able to work, plaintiff needed time to establish herself in the brokerage business, and needed some level of support during that time.

Defendant argues that the award of spousal support to plaintiff was inequitable in light of all the circumstances. We disagree and affirm the judgment of divorce and the award of spousal support. The family court has the discretion to award spousal support as it considers just and reasonable. MCL 552.23(1). Among the factors the court should consider when determining whether to award spousal support are: (1) the past relations and conduct of the parties; (2) the length of the marriage; (3) the ability to work; (4) the source of and amount of property awarded to the parties; (5) the age of the parties; (6) the ability to pay spousal support; (7) the present situation of the parties; (8) the needs of the parties; (9) the health of the parties; (10) the prior standard of living of the parties and whether either is responsible for the support of others; and (11) any other factors. *Magee v Magee*, 218 Mich App 158, 162; 553 NW2d 363 (1996). We review the family court's findings of fact related to an award of spousal support for clear error. If the findings are not clearly erroneous, we must then decide whether the dispositional ruling was

fair and equitable in light of all the facts. *Moore v Moore*, 242 Mich App 652, 654-655; 619 NW2d 723 (2000). We will affirm the family court's decision regarding spousal support unless we are firmly convinced that it was inequitable. *Sparks v Sparks*, 440 Mich 141, 151-152; 485 NW2d 893 (1992).

In its findings of fact, the family court acknowledged that defendant was laid off from his job at DuPont, and was working at a temporary, part-time position. Nevertheless, the court found that defendant's ability to earn exceeded that of plaintiff, and that plaintiff would need some time and some level of additional support while she established herself in the brokerage business. Defendant has not shown that these findings were clearly erroneous. *Moore, supra*. Moreover, while defendant challenges the court's conclusion that the breakdown of the marriage could not be attributed to the conduct of either party, he does not challenge the evidence on which the court based its finding. We conclude that the court's finding on this issue was not clearly erroneous. *Id.*

A family court's primary objective in awarding spousal support is to balance the incomes and needs of the parties in a way that will not impoverish either party. *Hanaway v Hanaway*, 208 Mich App 278, 295; 527 NW2d 792 (1995). The findings on which the family court based its decision to award plaintiff spousal support for a four-year period are not clearly erroneous. The award of spousal support to plaintiff is fair and equitable under all the circumstances. *Sparks, supra*.

We decline plaintiff's request for an award of attorney fees on the ground that she has not made the requisite showing of need on her part, or ability to pay on defendant's part. MCR 3.206(C)(2); MCR 7.216(C)(7).

Affirmed.

/s/ Henry William Saad
/s/ Donald E. Holbrook, Jr.
/s/ William B. Murphy