

STATE OF MICHIGAN
COURT OF APPEALS

KENT K. BORDINAT,

Plaintiff-Appellant,

v

JANA HOLOUSKOVA-BORDINAT,

Defendant-Appellee.

UNPUBLISHED

April 20, 2004

No. 244729

Oakland Circuit Court

LC No. 02-661745-DO

Before: Cavanagh, P.J., and Murphy and Smolenski, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the judgment of divorce entered by the circuit court. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On the date set for trial, counsel for both parties conferred with the trial court to present the two unresolved issues in the divorce. After the court indicated how it would rule if the matter were tried, counsel stated that the parties could agree to a judgment. The court took testimony from defendant, and granted a judgment of divorce. At a hearing on a motion for entry of judgment, plaintiff's counsel indicated that plaintiff objected to the substance of the ruling. The court found that the proposed judgment comports with its ruling, and entered the judgment. On appeal, plaintiff argues that the judgment is not supported by the evidence as no proofs were presented and reflects the trial court's bias, based on the fact that the judge previously handled a criminal sexual conduct plea involving the parties pursuant to which defendant was sentenced.

Plaintiff failed to preserve these issues for appeal. An issue is not properly preserved if it is not raised before, addressed by, and decided by the trial court. *ISB Sales Co v Dave's Cakes*, 258 Mich App 520, 532-533; 672 NW2d 181 (2003). Reversible error must be that of the trial court, and not error to which the aggrieved party contributed by plan or negligence. *Lewis v LeGrow*, 258 Mich App 175, 210; 670 NW2d 675 (2003). Thus, a party cannot stipulate to a matter, or waive objection, and then argue on appeal that the resultant action was error. *Chapdelaine v Sochocki*, 247 Mich App 167, 177; 635 NW2d 339 (2001); *Weiss v Hodge (After Remand)*, 223 Mich App 620, 636; 567 NW2d 468 (1997).

This case was set for trial on September 12, 2002, and arguments regarding the two unresolved issues were heard by the trial court off the record. Plaintiff's counsel acquiesced to the manner in which the trial court decided the case, and cannot now be heard to object to that

procedure on appeal. Had plaintiff desired to present evidence on the record he could have done so through his counsel or his release could have been secured for the trial date in order for plaintiff to be present. Alternatively, plaintiff's counsel could have requested an adjournment in order to set a new trial date at which plaintiff's proofs could have been presented.

In regards to plaintiff's allegation of bias, the record shows that the divorce complaint was filed after the criminal matter was concluded. But plaintiff did not move to disqualify the trial court in a timely manner, MCR 2.003(C)(1), and the record shows no evidence of bias.

Affirmed.

/s/ Mark J. Cavanagh

/s/ William B. Murphy

/s/ Michael R. Smolenski