

STATE OF MICHIGAN  
COURT OF APPEALS

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KIM E. BARNABY,

Plaintiff-Appellee,

v

JAMES L. BARNABY,

Defendant-Appellant.

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UNPUBLISHED

July 20, 2004

No. 247780

Kent Circuit Court

LC No. 00-005215-DO

Before: Fort Hood, P.J., and Donofrio and Borrello, JJ.

PER CURIAM.

Defendant appeals as of right from a judgment of divorce, following an arbitration award, granting plaintiff an interest in the family business, Barnaby Transportation, and an interest in a piece of real property located on 100<sup>th</sup> Street in Kentwood. We affirm.<sup>1</sup>

Defendant contends that the trial court erred as a matter of law by including Barnaby Transportation and the 100<sup>th</sup> Street property in the parties' marital estate. Review of an arbitration decision is extremely limited. *Krist v Krist*, 246 Mich App 59, 66; 631 NW2d 53 (2001). The party seeking to vacate or modify the arbitrator's award must establish a manifest disregard for the applicable law by the arbitrator, but for which the award would have been substantially otherwise. *Id.* at 67. Awards, which contain an error of law on the face of the award, are reviewable. To that end, the legal error must be discernable without scrutiny "of intermediate mental indicia." *Id.* Claims that take issue with a binding arbitrator's factual findings are not subject to appellate review. *Konal v Forlini*, 235 Mich App 69, 75; 596 NW2d 630 (1999). There are no specific requirements addressing the form or necessity of factual findings or legal reasoning in support of an arbitration award. *DAIIE v Ayvazian*, 62 Mich App 94, 102; 233 NW2d 200 (1975). Specific findings are unnecessary where implicit findings can be established from the relief granted by the arbitration award. *Id.* at 99-100. The trial court

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<sup>1</sup> Defendant contends that the trial court erred in concluding that it had no power to review the arbitrator's opinion for mistakes of law and in concluding that the only recourse was a challenge before this Court. Defendant is correct. MCL 600.5081; MCR 3.602. However, because our review of this matter is de novo, *Tokar v Albery*, 258 Mich App 350, 352; 671 NW2d 139 (2003), the circuit court's error is inconsequential.

may not hunt for errors in the arbitrator's explanation of how the award was decided. *Saveski v Tiseo Architects, Inc.*, \_\_\_ Mich App \_\_\_; \_\_\_ NW2d \_\_\_ (2004) (Docket No. 242610, issued April 13, 2004), slip op p 3.

In the present case, defendant asserts that Barnaby Transportation constituted premarital property and the arbitrator did not assess plaintiff's contributions to the business, but merely awarded it to plaintiff because he doubted that defendant could operate the business without substantial assistance. Similarly, regarding the 100<sup>th</sup> Street property, defendant alleged that he owned the property before the marriage and that plaintiff did not contribute to any increase in value.

Apparently before the arbitrator, each party disputed the extent of any role in the operation of the business and the extent of any health or alcohol issues. Review of the face of the arbitration award reveals that the arbitrator implicitly concluded that plaintiff's contributions were not wholly passive. These findings, albeit implicit, are not subject to review. *Konal, supra*; *Ayvazian, supra*. Furthermore, it is not apparent on the face of the arbitration opinion that the arbitrator misapplied the law concerning property division pursuant to *Reeves v Reeves*, 226 Mich App 490; 575 NW2d 1 (1997). Appellate review is foreclosed where defendant failed to establish that the arbitrator displayed a manifest disregard for the applicable law. *Krist, supra*.<sup>2</sup> Therefore, the trial court did not err in confirming the arbitration award provisions within the judgment of divorce.

Affirmed.

/s/ Karen M. Fort Hood  
/s/ Pat M. Donofrio  
/s/ Stephen L. Borrello

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<sup>2</sup> Plaintiff contends that she should be awarded actual attorney fees and costs associated with the appeal because of "ill-founded allegations of legal impropriety" and defendant's "incessant whining." However, defendant's inability to meet the burden of proof with regard to the high standard for challenging an arbitration decision does not equal "ill-founded allegations of legal impropriety."