

STATE OF MICHIGAN
COURT OF APPEALS

DEBORAH J. BORK,

Plaintiff-Appellee,

v

JAMES H. BORK,

Defendant-Appellant.

UNPUBLISHED

May 5, 1998

No. 193789

Wayne Circuit Court

LC No. 95-511147 DM

Before: Holbrook, Jr., P.J., and Young, Jr., and J.M. Batzer*, JJ.

PER CURIAM.

Defendant appeals as of right from a judgment of divorce. We affirm.

Defendant argues that the trial court erred by granting plaintiff's request for a divorce. We disagree. The trial court's finding that plaintiff's testimony satisfied the statutory grounds for a divorce was not clearly erroneous. See MCL 552.6(3); MSA 25.86(3) (a trial court should grant a divorce where the evidence demonstrates that "there has been a breakdown in the marriage relationship to the extent that the objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved"). As the trial court properly acknowledged, a divorce can be granted at the request of one of the parties to the marriage, even over the objection of the other party. *Draggoo v Draggoo*, 223 Mich App 415, 424; 566 NW2d 642 (1997). Further, while this Court respects defendant's deeply held religious beliefs, we hold that the trial court acted within its authority in dissolving the parties' civil marriage contract notwithstanding defendant's religious views to the contrary. See *Fisher v Fisher*, 118 Mich App 227, 230; 324 NW2d 582 (1982) (the status of any ecclesiastical union between the parties is unaffected by the trial court's dissolution of the parties' civil marriage contract).

Next, we find that the trial court did not err in its division of the parties' marital assets. The trial court was not required to sell all the marital property as requested by defendant pursuant to his religious beliefs. See *Van Koevering v Van Koevering*, 144 Mich App 404, 408; 375 NW2d 759 (1985) (in divorce cases, this Court is only required to apply the laws of this state, not to enforce the religious

* Circuit judge, sitting on the Court of Appeals by assignment.

beliefs of either party). The trial court's findings with respect to the division of marital property were not clearly erroneous and the trial court's dispositional ruling on this issue was fair and equitable because the trial court essentially divided the marital assets equally and any minor deviation was justified by the circumstances of the case. See *Byington v Byington*, 224 Mich App 103, 114-115; ___ NW2d ___ (1997) (to be equitable the division need not be mathematically equal, but any significant departure from an equal division must be justified by the trial court). The parties' primary asset, the marital home, will be sold after the minor child completes high school and the proceeds will be equally divided at that time. The trial court's distribution of the other marital assets was essentially equal and any deviation was justified by plaintiff's assumption of care of the minor child and the marital home, and the large disparity in the parties' incomes. The trial court also properly divided defendant's pension benefits because any right to vested pension benefits accrued by a party during marriage must be considered part of the marital estate. MCL 552.18(1); MSA 25.98(1). Further, contrary to defendant's claim, there is no right to a jury trial in a divorce action. *Draggoo, supra* at 427.

Next, we find that the trial court did not err in its award of alimony to plaintiff because the award properly balanced the incomes and needs of the parties in a way that would not impoverish either one. *Magee v Magee*, 218 Mich App 158, 162; 553 NW2d 363 (1996). The five-year period for the award was justified by plaintiff's assumption of the care of the marital home until its sale and by the disparity in the parties' income and work experience. The trial court's reliance on plaintiff's estimated monthly expenses was not clearly erroneous because plaintiff testified that her estimate was based on her actual past expenditures and because defendant did not raise any objections at trial to any of the estimated expenses. Also, the trial court did not err by failing to consider defendant's provision of financial assistance to the parties' adult son because such a consideration would only circumvent the prohibition against court-ordered child support for adult offspring. See *Lesko v Lesko*, 184 Mich App 395, 405; 457 NW2d 695 (1990).

Lastly, the trial court did not abuse its discretion by requiring defendant to pay a portion of plaintiff's attorney fees. The award was justified as either necessary for plaintiff's pursuit of the litigation or as compensation for defendant's unreasonable conduct during the course of litigation. *Hawkins v Murphy*, 222 Mich App 664, 669; 565 NW2d 674 (1997). Further, defendant failed to establish that the payment schedule set by the trial court was unreasonable and also failed to object to the reasonableness of the fees claimed.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Robert P. Young, Jr.

/s/ James M. Batzer