

STATE OF MICHIGAN
COURT OF APPEALS

CAROL ANN BEENEY,

Plaintiff-Appellee,

v

STEVEN DALE BEENEY,

Defendant-Appellant.

UNPUBLISHED

July 10, 1998

No. 203345

Berrien Circuit Court

LC No. 95-000750 DM

Before: Murphy, P.J., and Young, Jr. and M. R. Smith*, JJ.

MEMORANDUM.

Defendant appeals as of right from the entry of a judgment of divorce that requires him to pay alimony in the amount of \$160 per week. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant challenges the trial court's findings of fact in support of the alimony award as being clearly erroneous. He also challenges the award of alimony as being unfair and inequitable. *Sparks v Sparks*, 440 Mich 141, 151-152; 485 NW2d 893 (1992).

The trial court based its decision to award alimony, as well as its decision on the amount of alimony to award, on trial testimony of plaintiff and the deposition testimony of defendant, the deposition being offered in the absence of defendant at trial. Because defendant has failed to provide the deposition transcript as required by MCR 7.210 and because any determination of the merits of defendant's appellate challenges would necessitate a review of the deposition transcript, defendant's failure to provide the transcript waives appellate review of his challenges to the propriety of the alimony award. *People v Anderson*, 209 Mich App 527, 535; 531 NW2d 780 (1995); *Myers v Jarnac*, 189 Mich App 436, 444; 474 NW2d 302 (1991).

Affirmed.

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

/s/ William B. Murphy
/s/ Robert P. Young, Jr.
/s/ Michael R. Smith