

STATE OF MICHIGAN
COURT OF APPEALS

ALAN L. SNOOK,

Plaintiff/Counter-Defendant-
Appellant,

V

CHRISTINE T. SNOOK,

Defendant/Counter-Plaintiff-
Appellee.

UNPUBLISHED

November 18, 2003

No. 242193

Saginaw Circuit Court

LC No. 99-029958-DM

Before: O’Connell, P.J., and Jansen and Wilder, JJ.

Wilder, J. (*concurring*)

I join fully in the majority opinion, and write separately only to comment on several points not addressed in the majority opinion.

The primary goal of spousal support is to distribute the incomes and needs of the parties in a manner that will not impoverish either party, *Magee v Magee*, 218 Mich App 158, 162; 553 NW2d 363 (1996). Whether to award spousal support is in the trial court's discretion, and we review the trial court's award for an abuse of discretion. *Korth v Korth*, 256 Mich App 286; 662 NW2d 111 (2003); *Magee, supra* at 159, 161-162. On appeal, we review the trial court's findings of fact concerning spousal support for clear error. *Moore v Moore*, 242 Mich App 652, 654; 619 NW2d 723 (2000). The findings are presumptively correct, and the burden is on the appellant to show clear error. *Beason v Beason*, 435 Mich 791, 804; 460 NW2d 207 (1990). A finding is clearly erroneous if we are left with a definite and firm conviction that a mistake has been made. *Beason, supra* at 804-805, *Moore, supra* at 654-655. “If the trial court's findings are not clearly erroneous, [we] must then decide whether the dispositional ruling was fair and equitable in light of the facts.” *Moore, supra* at 655. The trial court's decision regarding spousal support must be affirmed unless we are firmly convinced that it was inequitable. *Korth, supra* at 113. Citing *Sparks, supra* at 152.

While the trial court’s findings of fact regarding spousal support, stated in its February 8, 2002 opinion, do not appear to be clearly erroneous on the record before us, and while the trial court’s conclusion from these facts that the plaintiff “has a much better ability at this stage to pay support than the Defendant” also does not appear to be clearly erroneous, nevertheless, in my judgment the findings do not adequately describe why the *specific* amount of spousal support the

trial court decided to award “was fair and equitable in light of the facts.” *Moore, supra* at 655. For this reason, I join with the majority in remanding for further findings.

Second, I would also conclude that the trial court clearly erred when it ordered that spousal support was non-modifiable for seven years. When a trial court renders an award of spousal support in a judgment of divorce, it retains continuing jurisdiction over the issue of spousal support subject to a petition by either party pursuant to a showing of changed circumstances. MCL 552.28; *Rickner v Frederick*, 459 Mich 371, 378-379; 590 NW2d 288 (1999). Any declaration that spousal support is non-modifiable with respect to amount or duration “no matter what change of circumstances occurs . . . in the future, constitutes an abuse of discretion.” *McCallister v McCallister*, 101 Mich App 543, 551; 300 NW2d 629 (1980). Thus, I would further direct that on remand the trial court may not so limit its award of spousal support.

/s/ Kurtis T. Wilder