

STATE OF MICHIGAN
COURT OF APPEALS

DIANNA E. COLE,

Plaintiff-Appellee,

v

GARY L. COLE,

Defendant-Appellant.

UNPUBLISHED

November 30, 2004

No. 248422

Barry Circuit Court

LC No. 02-000214-DO

Before: Whitbeck, C.J., and Jansen and Bandstra, JJ.

MEMORANDUM.

Defendant appeals as of right the award of spousal support entered as part of the parties' judgment of divorce. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The award of spousal support is in the trial court's discretion. *Gates v Gates*, 256 Mich App 420, 432; 664 NW2d 231 (2003). The main objective of spousal support is to balance the incomes and needs of the parties in a way that will not impoverish either party, and spousal support is to be based on what is just and reasonable under the circumstances of the case. *Moore v Moore*, 242 Mich App 652, 654; 619 NW2d 723 (2000). Among the factors that should be considered are: (1) the past relations and conduct of the parties; (2) the length of the marriage; (3) the abilities of the parties to work; (4) the source and amount of property awarded to the parties; (5) the parties' ages; (6) the abilities of the parties to pay spousal support; (7) the present situation of the parties; (8) the needs of the parties; (9) the parties' health; (10) the prior standard of living of the parties and whether either is responsible for the support of others; (11) contributions of the parties to the joint estate; (12) a party's fault in causing the divorce; (13) the effect of cohabitation on a party's financial status; and (14) general principles of equity. *Olson v Olson*, 256 Mich App 619, 631; 671 NW2d 64 (2003).

On appeal, we review the trial court's factual findings for clear error. *Gates, supra* at 432. The findings are presumptively correct and the burden is on the appellant to show clear error. *Id.* A finding is clearly erroneous if we are left with a definite and firm conviction that a mistake has been made. *Id.* at 432-433. If the trial court's findings are not clearly erroneous, we must decide whether the dispositional ruling was fair and equitable in light of the facts. *Id.* at 433. The trial court's decision regarding spousal support must be affirmed unless we are firmly convinced that it was inequitable. *Id.*

The trial court considered the relevant factors in awarding spousal support. The trial court found that the parties had a long term marriage, in which defendant was the breadwinner, and plaintiff stayed home to raise the family. Plaintiff was in her fifties, and both parties were in good health. The only evidence of fault concerned defendant, and the trial court chose not to give weight to that factor. The trial court did not ignore the fact that plaintiff was unemployed, and defendant does not disagree with the decision to impute to her an annual income of \$20,000.

Defendant's primary objection is that the trial court gave insufficient attention to the needs of the parties in reaching its decision. However, defendant presented no evidence that his need for the money is greater than plaintiff's need. In light of all the circumstances, the award is fair and equitable.

We affirm.

/s/ William C. Whitbeck

/s/ Kathleen Jansen

/s/ Richard A. Bandstra