

IN THE UTAH COURT OF APPEALS

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Donna Hanson,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner and Appellee,)	
)	Case No. 20060686-CA
v.)	
)	F I L E D
Vance Hanson,)	(October 25, 2007)
)	
Respondent and Appellant.)	2007 UT App 348

Third District, Salt Lake Department, 054901853
The Honorable L.A. Dever

Attorneys: Russell T. Monahan, Salt Lake City, for Appellant
Richard S. Nemelka, Salt Lake City, for Appellee

Before Judges Greenwood, Orme, and Thorne.

ORME, Judge:

We have determined that "[t]he facts and legal arguments are adequately presented in the briefs and record[,] and the decisional process would not be significantly aided by oral argument." Utah R. App. P. 29(a)(3). Moreover, the issues presented are readily resolved under existing law.

We share some of Appellant's concern about the findings of fact, especially regarding the basis for the trial court's adjusting the parties' expenses and its characterizing those expenses as being within a range rather than in terms of specific amounts. However, Appellant's arguments about the detail and facial sufficiency of the trial court's findings fail because he did not object below to the sufficiency of the findings. See 438 Main St. v. Easy Heat, Inc., 2004 UT 72, ¶ 56, 99 P.3d 801.

Nor do we see merit in Appellant's challenge to the trial court's imputation of income to Appellee. Generally, the trial court may rely on a party's income at the time of trial for purposes of determining alimony or child support. See Griffith v. Griffith, 959 P.2d 1015, 1019 (Utah Ct. App. 1998). But a trial court "may impute gross income" to a spouse after "determin[ing] that underemployment . . . exists." Hill v. Hill, 869 P.2d 963, 964-65 (Utah Ct. App. 1994). We see no abuse of

discretion in the trial court's decision to impute income at the level Appellee earned after reducing her hours at Siemens, rather than at the higher level urged by Appellant, given that her decision to do so was made with Appellant's agreement during the parties' marriage. Cf. Crompton v. Crompton, 888 P.2d 686, 689 (Utah Ct. App. 1994) (discussing that when evaluating the needs of the spouses in an alimony context, their "needs . . . are defined by the parties' own decisions concerning their standard of living").

Appellant argues--and Appellee readily concedes--that the trial court overstated Appellant's net income by greatly understating Appellant's legitimate deductions for taxes and insurance. We cannot agree with Appellee that the error is harmless because "we cannot, with any degree of assurance," determine if the trial court would have made the same alimony award had it had Appellant's actual net income in mind. Rehn v. Rehn, 1999 UT App 41, ¶ 28, 974 P.2d 306 (citation and internal quotation marks omitted).

Accordingly, we remand this case to the trial court to correctly determine Appellant's net income and adjust the alimony award, as appropriate.

Gregory K. Orme, Judge

WE CONCUR:

Pamela T. Greenwood,
Associate Presiding Judge

William A. Thorne Jr., Judge