

STATE OF MICHIGAN
COURT OF APPEALS

RONNIE L. STRUNK,

Plaintiff/Counter Defendant-
Appellant,

v

PAMELA A. STRUNK,

Defendant/Counter Plaintiff-
Appellee.

UNPUBLISHED

February 3, 2009

No. 281554

Oakland Circuit Court

LC No. 2004-698096-DM

Before: Hoekstra, P.J., and Fitzgerald and Zahra, JJ.

PER CURIAM.

Plaintiff appeals as of right, challenging the trial court's award of spousal support to plaintiff.¹ We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Plaintiff argues that the trial court erred by considering the facts relevant to spousal support as they existed at the time this Court issued its previous opinion, particularly calculations of the parties' incomes.² Plaintiff alleges that the award of spousal support was excessive and that this matter should be remanded to a different judge.

¹ This is the second appeal in this matter. In the first appeal (Docket No. 264246), this Court vacated the child and spousal supports set by the trial court and remanded for reconsideration in accordance with an opinion dated February 15, 2007. This appeal is from the trial court's opinion on remand.

² Defendant did not file a cross appeal; however, in her brief, with no citation to authority, she argued that the trial court did not have the authority to consider her receipt of \$2,665 in State benefits in the divorce proceeding. Defendant has abandoned this issue by giving it cursory treatment in her brief. *Houghton v Keller*, 256 Mich App 336, 340; 662 NW2d 854 (2003). Further, defendant did not present any evidence of plaintiff's imputed income, which she also alleged.

This Court reviews a trial court's award of spousal support for an abuse of discretion. *Olson v Olson*, 256 Mich App 619, 631; 671 NW2d 64 (2003). An abuse of discretion occurs when the trial court's decision falls outside of the range of reasonable and principled outcomes. *Maldonado v Ford Motor Co*, 476 Mich 372, 388; 719 NW2d 809 (2006). This Court reviews a trial court's findings of fact related to spousal support for clear error. *Moore v Moore*, 242 Mich App 652, 654; 619 NW2d 723 (2000). "A finding is clearly erroneous if the appellate court is left with a definite and firm conviction that a mistake has been made." *Id.* at 654-655.

The objective in awarding spousal support is to balance the incomes and needs of the parties so that neither will be impoverished; "alimony is to be based on what is just and reasonable under the circumstances of the case." *Olson, supra*. Factors that a trial court should consider include:

- (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 alimony,
- (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. [*Id.*]

In this case, the trial court expressly confirmed that it considered appropriate factors in its decision.

Contrary to plaintiff's contention, the trial court did not err when it chose to use the income amounts calculated by this Court in its earlier opinion. Spousal support may be calculated based on the parties' income at the time of the judgment of divorce. Anything else would result in an improper retroactive modification of support. MCL. 552.603(2).

Furthermore, the evidence supports the conclusion that nothing had significantly changed since this Court's previous opinion. Neither party offered compelling evidence that any amounts should be revised. Specifically, the record reflects that plaintiff earns approximately \$11,269, inclusive of the State subsidy. This is roughly equal to this Court's determination of \$10,972 in its earlier opinion. The evidence also shows that plaintiff earned approximately \$36,900 from May 2006 to May 2007. Again, this is roughly equal to the \$37,400 income this Court attributed to him in its prior opinion.

As indicated, the trial court had the discretion to fashion spousal support payments. *Olson, supra* at 631. The court properly considered "the respective incomes of the parties, the ability of plaintiff to pay spousal support and the needs of defendant given the medical care

constraints placed upon her by the parties' minor child's illness and disability." Based on these considerations, which are supported by the record, along with the income calculations, the trial court's decision to award \$550 per month in spousal support was not an abuse of discretion.

Affirmed.

/s/ Joel P. Hoekstra
/s/ E. Thomas Fitzgerald
/s/ Brian K. Zahra