

STATE OF MICHIGAN  
COURT OF APPEALS

---

KATHLEEN M. DRENDALL,

Plaintiff-Appellee,

v

MICHAEL E. DRENDALL,

Defendant-Appellant.

---

UNPUBLISHED

August 13, 1996

No. 173292

LC No. 90-167591

Before: Cavanagh, P.J., and Marilyn Kelly and J.R. Johnson,\* JJ.

PER CURIAM.

Defendant appeals as of right from the judgment of divorce entered on February 23, 1994. We affirm.

Defendant argues that the trial court abused its discretion in ordering him to pay for plaintiff's medical insurance for fifteen years. In reviewing a dispositional ruling in a divorce case, we first review the trial court's findings of fact for clear error and then decide whether the dispositional ruling was fair and equitable in light of the facts. *Hanaway v Hanaway*, 208 Mich App 278, 292; 527 NW2d 792 (1995). A factual finding is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake has been made. *Mitchell v Mitchell*, 198 Mich App 393, 396; 499 NW2d 386 (1993). The dispositional ruling is discretionary and should be affirmed unless the reviewing court is left with the firm conviction that the division was inequitable. *Sparks v Sparks*, 440 Mich 141, 151-152; 485 NW2d 893 (1992).

After carefully reviewing the record, we conclude that the trial court's findings of fact are not clearly erroneous, and the dispositional ruling was not inequitable. Defendant argues that the trial court ordered him to pay for plaintiff's medical insurance without making a finding that defendant had adequate assets or income to comply with the order. A trial court must consider a party's ability to pay in making an alimony determination. *Thames v Thames*, 191 Mich App 299, 308; 477 NW2d 496 (1991). However, defendant has not shown that the trial court failed to consider this factor. The trial court was aware that defendant's net income was \$250 per week, and that prior to trial defendant paid

---

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

\$95 per week to plaintiff. The trial court stated that it assumed that the insurance premiums would not exceed the \$95 per week that defendant had been paying. As defendant has presented no evidence to contest that assumption, defendant has failed to establish that the trial court's finding was clearly erroneous. Moreover, we find that the disposition was fair and equitable in light of all the circumstances. See *Sparks, supra*.

Defendant also argues that the trial court was biased or prejudiced against him. Because defendant did not raise this issue in the trial court, it is not preserved for appellate review. *In re Schmeltzer*, 175 Mich App 666, 673; 438 NW2d 866 (1989). In any case, we find no merit to this issue. A judge is presumed to be impartial, and the party who challenges a judge based on bias or prejudice bears a heavy burden of overcoming that presumption. *In re Forfeiture of \$1,159,420*, 194 Mich App 134, 151; 486 NW2d 326 (1992), lv den 442 Mich 905, cert den \_\_\_ US \_\_\_; 114 S Ct 189; 126 L Ed 147 (1993). Bias is not demonstrated simply by a judge's strongly worded expression of a negative opinion of a party when the judge formed that opinion during the course of the trial. See *Hayes-Albion Corp v Kuberski*, 421 Mich 170, 190-191; 364 NW2d 609 (1984).

Affirmed.

/s/ Mark J. Cavanagh

/s/ Marilyn Kelly

/s/ J. Richardson Johnson