STATE OF MICHIGAN

COURT OF APPEALS

HENRY L. HILL,

Plaintiff-Appellee,

v

CATHY A. HILL,

Defendant-Appellant.

UNPUBLISHED
September 3, 1996

No. 167545
LC No. 92-215710-DM

Before: Holbrook, Jr., P.J., and Taylor and W.J. Nykamp,* JJ.

PER CURIAM.

Defendant Cathy A. Hill appeals as of right from the judgment of divorce entered July 7, 1993, by the Wayne Circuit Court following a bench trial. We reverse in part and remand this matter to the trial court.

Following a hearing on defendant's motion for temporary custody and support of the minor children, the trial court awarded defendant temporary child support of $125 a week, commencing the day the order was entered. The court reserved ruling on defendant's request for temporary alimony during the pendency of the action. Following a bench trial, the court entered a judgment of divorce, ordering plaintiff, among other things, to pay $142 a month in child support for the two children, commencing on the date of the judgment, and to pay defendant $200 a month as her share of plaintiff's pension and in lieu of alimony.

Defendant moved for reconsideration, requesting that child support be increased to an amount commensurate with plaintiff's income level and present financial circumstance, and also that it be made retroactive to the date that plaintiff's complaint was filed (June 5, 1992). Defendant also requested a share of plaintiff's lump-sum retirement distribution and an increase in her share of plaintiff's pension. The trial court denied defendant's motion for reconsideration. Defendant filed a claim of appeal in this Court on August 20, 1993.

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

Approximately two months after the claim of appeal was filed in this Court, defendant moved to modify plaintiff's child support obligation under the judgment of divorce, asserting that plaintiff's financial circumstance had changed because he was earning income as a minister in Mississippi. The court referred defendant's request for increased child support to the Friend of the Court for investigation. Thereafter, the trial court modified the judgment of divorce by increasing plaintiff's child support obligation from $142 a week for two children to $182 a week, "commencing November 16, 1993."[1]

On appeal from the initial judgment of divorce, defendant first asserts that the trial court's award of child support was inequitably low. We disagree. The court's calculation of child support was based on friend of the court recommendations, and is just and appropriate. See *Nellis v Nellis*, 211 Mich App 226, 232; ___ NW2d ___ (1995).

Defendant also asserts that child support should have been made retroactive to the date of plaintiff's complaint. We agree. At the hearing held on November 10, 1992, plaintiff's counsel and the trial court agreed that the child support should be made retroactive to the filing of the complaint yet the judgment did not reflect this agreement. Accordingly, we remand this matter to the trial court so that it may reconsider the amount of child support awarded during the time period from June 5, 1992, to November 10, 1992, when child support was awarded at $125 a week.

Defendant next asserts that the trial court's award to defendant of $200 a month—approximately eight percent of plaintiff's $2,505 monthly pension—as her share of plaintiff's pension (in lieu of alimony) was inequitable. Considering the trial court's earlier findings regarding, among other things, the parties' disparate income levels, the poor condition of the marital home, plaintiff's fault in causing the breakdown of the marriage, and plaintiff's lack of candor in the trial court regarding his income and assets, we believe the amount awarded is inequitably low. See *Magee v Magee*, ___ Mich App ___ (Docket No. 174283, issued 8/6/96). Accordingly, we reverse in part and remand to the trial court for an increase in the amount awarded to defendant and an explanation of how it arrived at the new figure.

Reversed in part and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Donald E. Holbrook, Jr.
/s/ Clifford W. Taylor
/s/ Wesley J. Nykamp

[1] We are puzzled why defendant's appeal brief, which was filed in this Court on January 12, 1995—well after the trial court granted defendant's motion to modify the judgment of divorce—fails to inform this Court regarding the postjudgment order.