

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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LORNA M. ZAVITZ now known as LORNA  
MYERS,

UNPUBLISHED  
February 14, 1997

Plaintiff-Appellee,

v

No. 184696  
Missaukee Circuit Court  
LC No. 92-2825-DM

JAMES A. ZAVITZ

Defendant-Appellant.

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Before: McDonald, P.J., and Murphy and M. F. Sapala\*, JJ.

PER CURIAM.

Defendant appeals a post judgment order finding him in contempt for failure to pay alimony in gross payments pursuant to the judgment of divorce and as ordered by the court. On appeal defendant claims the court exceeded its authority when it found defendant in contempt for failure to pay alimony in gross payments.

Defendant claims the alimony in gross provisions were part of the property settlement and not intended to be spousal support and property settlements cannot be enforced by the contempt powers of the court.

The court found and ruled in part:

The Opinion of this Court and the subsequent Judgment of Divorce clearly show that the award of alimony in gross was not part of the property settlement. After equally dividing the marital assets of the parties, the Court under a heading entitled "Spousal Support" awarded plaintiff \$15,000.00 as alimony in gross. The Court clearly stated in its Opinion that ". . . the relevant factors of the length of marriage, age of the plaintiff, income of the plaintiff, and education and training of the plaintiff . . ." called ". . . for an alimony award of approximately 3 to 10 years duration." The Court went on to indicate that defendant's apparent ability to pay spousal support was

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\* Recorder's Court judge, sitting on the Court of Appeals by assignment.

factored into this award. The spousal support award was clearly and unequivocally intended to provide support and maintenance for the

plaintiff for a period of five years. It was just as clearly and unequivocally not intended to be part of the property settlement. The Court did award plaintiff the sum of \$16,575.00 in cash as part of the property settlement to insure an equal division of the marital assets. If the \$15,000.00 was meant to be part of this cash settlement, it would have been included in this provision.

After careful review of the record we hold the trial court's findings are not clearly erroneous. The trial court's opinion, filed October 7, 1993, clearly indicated that the alimony in gross award was intended for spousal support and not part of the property settlement. Spousal support is enforceable by contempt proceedings. *Kyte v Kyte*, 325 Mich 149; 37 NW2d 784 (1949).

Affirmed. Costs to plaintiff.

/s/ Gary R. McDonald

/s/ William B. Murphy

/s/ Michael F. Sapala