

STATE OF MICHIGAN
COURT OF APPEALS

MONICA D. FANT,

Plaintiff-Appellee,

v

GARY L. FANT,

Defendant-Appellant.

UNPUBLISHED
February 21, 2003

No. 238452
Ingham Circuit Court
LC No. 00-018645-DM

Before: Kelly, P.J. and White and Hoekstra, JJ.

MEMORANDUM.

Defendant appeals as of right the judgment of divorce entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that in setting the amount of child support for the parties' son, the trial court abused its discretion in considering plaintiff's payment of college expenses for the parties' post-majority daughter. We disagree. The burden is on the party appealing a child support order to show that the trial court clearly abused its discretion. *Kosch v Kosch*, 233 Mich App 346, 350; 592 NW2d 434 (1999). A trial court may not, on its own, impose a post-majority child support obligation on a party. *McNames v McNames*, 93 Mich App 477, 479-481; 286 NW2d 892 (1979). However, parties may agree to pay post-majority support, and such agreements are enforceable. *Wagner v Wagner*, 105 Mich App 388, 392-394; 306 NW2d 523 (1981).

MCL 552.605(2)¹ provides:

Except as otherwise provided in this section, the court shall order support in an amount determined by application of the child support formula developed by the state friend of the court bureau as required in section 19 of the friend of the court act, MCL 552.519. The court may enter an order that deviates from the formula if the court determines from the facts of the case that application of the child support formula would be unjust or inappropriate and sets forth in writing or on the record all of the following:

¹ These provisions were formerly set forth in MCL 552.16(2).

(a) The support amount determined by application of the child support formula.

(b) How the support order deviates from the child support formula.

(c) The value of property or other support awarded instead of the payment of child support, if applicable.

(d) The reasons why application of the child support formula would be unjust or inappropriate in the case.

The trial court did not consider an impermissible factor in deviating from the child support formula where defendant acknowledged an agreement to share in his daughter's college expenses. The court complied with MCL 552.605(2) in stating a valid reason why the application of the formula would be unjust or inappropriate. The court did not abuse its discretion in determining the amount of child support.

Affirmed

/s/ Kirsten Frank Kelly

/s/ Helene N. White

/s/ Joel P. Hoekstra