

STATE OF MICHIGAN
COURT OF APPEALS

DETROIT METROPOLITAN CREDIT UNION,
Plaintiff-Appellee,

UNPUBLISHED
May 29, 2014

v

ELLIOT R. SCHORE,

No. 312121
Wayne Circuit Court
LC No. 10-005743-CK

Defendant-Appellant,

and

BANK OF AMERICA,

Garnishee Defendant-Appellee.

Before: MURRAY, P.J., and JANSEN and SHAPIRO, JJ.

MURRAY, P.J. (*dissenting*).

The only order appealed is the trial court’s order denying defendant’s motion for reconsideration. With due respect to my colleagues, I would hold that the trial court did not abuse its discretion when it denied defendant’s motion for reconsideration. As the majority opinion recognizes, we have long held that it is not an abuse of discretion to deny a motion for reconsideration that is based upon evidence that could have been originally provided to the trial court before the initial decision. See, e.g., *Yoost v Caspari*, 295 Mich App 209, 220; 813 NW2d 783 (2012). Because the only new evidence supplied with defendant’s motion were bank documents defendant could have provided earlier, the trial court was free to exercise its discretion to deny reconsideration. Since our case law allows for such a decision, it was within the range of principled outcomes. We should not overturn that discretionary decision simply because we may have initially done otherwise. *Taylor v Mobley*, 279 Mich App 309, 315; 760 NW2d 234 (2008).

Neither I nor the majority opinion (the majority can only state that the order is “quite likely” in violation of law) can conclude that the order is contrary to law. In the trial court and before this Court, the parties recognize what is clear – social security funds are never subject to garnishment, while pension funds are – once they are deposited into an account. Nothing before

us can lead to a conclusion – nor even a suspicion – that this clear law will not be followed when the funds are ultimately extracted from the accounts. I would affirm.

/s/ Christopher M. Murray