

STATE OF MICHIGAN  
COURT OF APPEALS

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LINDA F. SANDERS,  
Plaintiff-Appellee,

UNPUBLISHED  
February 16, 2006

v

STEVEN SANDERS,  
Defendant-Appellant.

No. 258459  
Oakland Circuit Court  
LC No. 2004-689143-DO

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Before: Borrello, P.J., and Sawyer and Fitzgerald, JJ.

MEMORANDUM.

Defendant appeals as of right from a judgment of divorce. We reverse in part and remand for further proceedings. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant appeals the court's ruling as to spousal support. We review the trial court's findings of fact for clear error. A finding is clearly erroneous if we are left with a definite and firm conviction that a mistake has been made. If we uphold the factual findings, we then must decide whether the dispositional ruling was fair and equitable in light of those facts. We will not reverse the trial court's dispositional ruling absent a firm conviction that it was inequitable. *Moore v Moore*, 242 Mich App 652, 654-655; 619 NW2d 723 (2000); *Magee v Magee*, 218 Mich App 158, 161-162; 553 NW2d 363 (1996).

We find no abuse of discretion in the trial court's decision to award spousal support. *Demman v Demman*, 195 Mich App 109, 110; 489 NW2d 161 (1992). It was undisputed that defendant was employed while plaintiff was not, and that plaintiff had been unsuccessful in obtaining employment. However, the trial court clearly erred in imputing additional income to defendant without finding that he had voluntarily reduced his income in order to avoid paying spousal support. *Healy v Healy*, 175 Mich App 187, 191-192; 437 NW2d 355 (1989). To the contrary, the evidence showed that defendant had been laid off eight months before plaintiff sued for divorce. Further, the trial court erred in imputing an income to plaintiff without finding that she had voluntarily limited her income to obtain spousal support. *Moore, supra* at 655. Consequently, the trial court awarded plaintiff 62 percent of defendant's current income for the first two years. This was clearly inequitable. On remand, the trial court shall redetermine spousal support in light of the parties' actual abilities, needs and circumstances, taking into account that the main objective is to balance the incomes and needs of the parties in a way that

would not impoverish either party. *Hanaway v Hanaway*, 208 Mich App 278, 295; 527 NW2d 792 (1995).

Reversed in part and remanded for further proceedings consistent with this opinion. Jurisdiction is not retained.

/s/ Stephen L. Borrello  
/s/ David H. Sawyer  
/s/ E. Thomas Fitzgerald