

STATE OF MICHIGAN
COURT OF APPEALS

BRENDA KAY JONES,

Plaintiff-Appellee,

v

JAMES KENNETH JONES,

Defendant-Appellant.

UNPUBLISHED

March 20, 2007

No. 265695

Barry Circuit Court

LC No. 04-000497-DM

Before: O’Connell, P.J., and Murray and Davis, JJ.

PER CURIAM.

Defendant appeals as of right the child support award contained in his divorce judgment. Defendant was ordered to pay \$554 in child support per month. We affirm.

Defendant’s first two issues on appeal are whether the trial court used the child support formula to calculate child support and whether the court arbitrarily decided that the actual amount of defendant’s preexisting child support obligations to other children was \$125 per month. Defendant did not object to the child support award and did not challenge the method used to calculate the award, so defendant did not preserve these issues for appeal. *Jansen v Jansen*, 205 Mich App 169, 172; 517 NW2d 275 (1994). Moreover, defendant has not supported his argument that the trial court failed to apply the child support formula, and he has not demonstrated that his support obligations to his other children exceeded \$125 per month. Although defendant points to his testimony, the trial court found defendant evasive and held that his testimony lacked credibility. Under the circumstances, we do not find any manifest injustice in the trial court’s ruling. See *Polkton Twp v Pellegrom*, 265 Mich App 88, 95-96; 693 NW2d 170 (2005).

Defendant’s third issue on appeal is that the trial court erroneously disregarded defendant’s unrefuted testimony about the relative amount his preexisting child support obligations and ordered defendant to pay \$554 in child support. Defendant argues that, when combined with defendant’s preexisting obligations, the new obligation far exceeded the maximum allowable by law. We disagree. We review child support orders for an abuse of discretion. *Burba v Burba*, 461 Mich 637, 647; 610 NW2d 873 (2000). Both federal law and state law generally prohibit child support awards that exceed 50 percent of a payor’s net income. MCL 552.608; 15 USC 1673(b)(2)(A).

Defendant testified that his preexisting support obligations constituted 50 percent of his net income and that adding another child support obligation to his current obligations would create a total support obligation that was “a lot more than half” of his income. However, the trial court reasonably concluded that defendant misrepresented his income,¹ and took measures to keep his true earnings undetected. Defendant’s testimony as a whole was inconsistent and spotty. He could not remember or did not know basic facts about his income, his business, the amount he paid in child support, or even his wedding date. Whether this was a product of poor memory or defendant’s design was a matter for the trial court to decide, because the trial court was in the best position to judge his credibility. See *Draggoo v Draggoo*, 223 Mich App 415, 429; 566 NW2d 642 (1997). In the end, the trial court was required to estimate defendant’s income and other child support obligations on the facts plaintiff presented. Given defendant’s lack of credibility and his failure to support his claims with documentation, there is no indication that the total final child support obligation violated any legal restrictions.

Affirmed.

/s/ Peter D. O’Connell
/s/ Christopher M. Murray
/s/ Alton T. Davis

¹ We note that defendant’s quantification of his current support obligations as a proportion of his income and his simultaneous underestimation of his income, provided the trial court with a relatively low basis for calculating the dollar amount of his support obligations. Defendant cannot now complain that the ratio was correct even if the actual amount of income was grossly underrepresented. See *Phinney v Perlmutter*, 222 Mich App 513, 537; 564 NW2d 532 (1997).