IN THE COURT OF APPEALS OF IOWA

No. 1-207 / 00-1347
Filed June 29, 2001

IN RE THE MARRIAGE OF LINDA MARIE HEIDEMANN AND JOSEPH THEODORE HEIDEMANN

FILED
JUN 29 2001
CLERK SUPREME COURT

Upon the Petition of
LINDA MARIE HEIDEMANN,
Appellant,

And Concerning
JOSEPH THEODORE HEIDEMANN,
Appellee.

Appeal from the Iowa District Court for Black Hawk County, Todd A. Geer, Judge.

Linda Heidemann appeals the support provisions of the decree dissolving her marriage to Joseph Heidemann. **AFFIRMED AS MODIFIED.**

Douglas V. Coonrad of Douglas V. Coonrad, P.C., Hudson, for appellant.

Thomas W. Langlas of Gallagher, Langlas & Gallagher, P.C., Waterloo, for appellee.

Considered by Vogel, P.J., and Zimmer and Hecht, JJ.

VOGEL, P.J.

Linda Marie Heidemann appeals the spousal support provisions of the decree dissolving her marriage to Joseph Theodore Heidemann, contending that the district court erred in denying her request for traditional or permanent spousal support. Because we find some degree of traditional spousal support should have been awarded, we modify the decision of the district court in that regard.

Background Facts. Linda and Joseph were married for twenty-nine years and at the time of trial were forty-nine and forty-eight years old, respectively. With one brief exception Joseph worked throughout the marriage. He has been employed as a quality control inspector at Bell Helicopter in Texas since 1985. To supplement his income, he currently works part-time as a convenience store clerk, and in the past has held other part-time jobs and performed consulting work. Linda's work history was more sporadic and largely limited to sales and clerical-type positions. She spent significant portions of the marriage as a homemaker and in raising the couple's three children. Both parties have demonstrated physical and psychological health issues, but at present these do not seriously interfere with their ability to maintain employment

Linda is currently employed as a sales associate at a department store in Iowa while pursuing a two-year associate degree in business administration. She plans on earning a bachelor's degree and testified that she hopes to complete "the program" by 2004. It is unclear whether this date references receipt of her associate or bachelor's degree, but it is clear she will be in her mid-fifties before her education is complete. To aid Linda with her ability to reeducate

herself and increase her future earning potential, the district court ordered Joseph to pay rehabilitative spousal support in the amount of $600 per month for sixty months.

During much of the marriage the parties enjoyed a comfortable lifestyle, but achieved this primarily by living just at or above their means. This resulted in the accumulation of no real property, minimal personal property, and near negligible savings. What little martial property existed beyond household furnishing was heavily encumbered, and upon dissolution Joseph was awarded these items and assessed the majority of the parties' debts.

Scope of Review. We conduct a de novo review of dissolution-of-marriage proceedings. Iowa R. App. P. 4. We have an obligation to examine the complete record and adjudicate rights anew on all properly presented issues. *In re Marriage of Stark*, 542 N.W.2d 260, 262 (Iowa Ct. App. 1995). We are not bound by, but give deference to, the district court's factual findings. Iowa R. App. P. 14(f)(7); *In re Marriage of Griffin*, 570 N.W.2d 258, 259 (Iowa Ct. App. 1997).

Spousal Support Award. An award of spousal support is a balancing of the equities. *In re Marriage of Clinton*, 579 N.W.2d 835, 839 (Iowa Ct. App. 1998). It is used as a means of compensating the party who leaves the marriage at a financial disadvantage, particularly where there is a large disparity in earnings. *Id.* It is a discretionary award, dependent upon each party's earning capacity and present standards of living, as well as the ability to pay and the relative need for support. *In re Marriage of Bell*, 576 N.W.2d 618, 622 (Iowa Ct. App. 1998). Courts are guided by Iowa Code section 598.21, which mandates

consideration of a number of factors, such as the length of the marriage, the age and health of the parties, the earning capacity of the spouse seeking support, and particulars surrounding that spouse's ability to become self-sufficient. Iowa Code § 598.21(3) (1999).

This is a relatively long marriage, and there is a substantial disparity between the parties' current earning capacities. At present Joseph earns at least four times Linda's salary of $13,400 year, and until his retirement has a demonstrated yearly earning potential of $56,000 to $62,000.[1] At the time of trial Linda was forty-nine years old, just beginning her education, and approximately fifteen years from her own retirement. Although her physical and emotional health difficulties have not prevented her from holding down a near full-time job commensurate with her current skills, the physical demands of a sales job will become increasingly burdensome with age.

In at least partial acknowledgment of this fact, Linda is already in the process of improving her educational level and earning capacity. Linda contends that, even with a bachelor's degree, she will never earn more than $20,000 per year. She offers nothing in support of this opinion, however, and we find the record does not credibly project the amount of Linda's potential future earnings. What is apparent, given her age and the length of time until her educational goals

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[1] Averaging Joseph's recent earned income, as reported on his income tax returns for 1994 through 1998, places his yearly earnings in the region of $61, 000. However, as his income has continually fluctuated, we must also take into account the fact his Bell Helicopter income for 1999 was only $54,391, and his projected 2000 income, which included nearly $7,000 in pay from his part-time work, was only around $54,000.

are achieved, is the extreme unlikelihood she will ever come close to matching Joseph's income level.

Despite Joseph's claims he is barely subsisting on his current pay, his proven earning capacity, and current income level, gives him the ability to assist Linda in achieving a reasonable income level without enduring substantial hardship. To that end we find Linda should be awarded some amount of traditional spousal support from the date of the decree until Joseph reaches his normal retirement age. Taking into account the district court's rehabilitative support award, we award Linda an additional $200 per month in traditional spousal support for the first sixty months following the June 27, 2000, decree, and $600 per month thereafter until Joseph reaches his normal retirement date under his Bell Helicopter retirement plan. We affirm the remainder of the district court's decision.

AFFIRMED AS MODIFIED.