FILED
DEC 2 1 1989
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 9-548 / 89-359

IN RE THE MARRIAGE OF BELINDA JOYCE CONNER AND DOUGLAS LYNN CONNER

Upon the Petition of

BELINDA JOYCE CONNER,

Appellant,

And Concerning

DOUGLAS LYNN CONNER,

Appellee.

Appeal from the Iowa District Court for Henry County, Harlan W. Bainter, Judge.

Appeal from dissolution decree establishing child support. **AFFIRMED AS MODIFIED.**

Cynthia H. Danielson of the Danielson Law Office, P.C., Mt. Pleasant, for appellant.

James M. Becker, Jr. of Becker Law Office, P.C., Mt. Pleasant, for appellee.

Considered by Oxberger, C.J., and Donielson and Habhab, JJ.

PER CURIAM 79

This is an appeal from the child support provisions of a dissolution decree between Belinda Conner and Douglas Conner.

Belinda and Doug were married on October 7, 1984 and are the parents of two minor children born in February 1987 and October 1988. Another child of the parties born February 22, 1985, died in October 1987. Both parties were twenty-six at the time of the divorce.

Doug attended public school through the ninth grade but has obtained a GED. The district court noted that Doug was currently employed as an unskilled laborer by Thermal Corporation in Mt. Pleasant with net earnings of $186.08 per week, without benefits. Doug had previously worked for Parkers Sanitation for approximately $300 per week, gross, plus benefits. However, this required Doug to live in Minnesota or Nebraska.

Belinda, a high school graduate, is currently unemployed. Prior to her marriage, she worked as a retail sales clerk. At the time of the divorce, Belinda was receiving ADC of $394 per month and food stamps of $50 per month. Belinda estimated her monthly expenses for her and the children at $945.

Following hearing, the district court entered its decree of dissolution of marriage. Joint custody was ordered with the primary physical custody of the children

given to Belinda. Doug was required to pay child support of $25 per week, per child. In addition, Doug was required to maintain his current life insurance policy on himself with his children as sole beneficiaries. Doug was also required to provide for a portion of the children's medical expenses if insurance was not otherwise obtained by Belinda. Belinda was required to pay debts of $550, Doug was required to pay debts of approximately $4,193. Following entry of the decree, Belinda filed this appeal, claiming that the child support was inadequate.

I. Scope of Review.

To resolve the issues presented by the parties we turn to well-established principles. Our scope of review is de novo. Iowa R. App. P. 4. Although not bound by the trial court's determination of factual findings, we will give considerable weight to them, especially when considering the credibility of witnesses. Iowa R. App. P. 14(f)(7). Prior cases, though helpful, have little precedential value since we must base our decision here primarily on the particular circumstance of the parties presently before us. In re Marriage of Weidner, 338 N.W.2d 351, 356 (Iowa 1983).

II. Child Support.

It is well established that both parents have a legal obligation to support their children. Iowa Code § 598.21(4); In re Marriage of Fleener, 247 N.W.2d 219, 221

(Iowa 1976). The obligation to support should be apportioned according to the ability of each parent to contribute. In re Marriage of Bornstein, 359 N.W.2d 500, 504 (Iowa App. 1984). In establishing child support the courts are to consider the financial resources of the child; the financial resources of both parents; the standard of living the child would have enjoyed had there not been a dissolution; the desirability of awarding the family home or the right to live in the family home for a reasonable period to the party having physical care of the child; the cost of day care if it is needed; the physical and emotional health needs of the child; the child's educational needs; the tax consequences to each party; the amount and duration of any spousal support orders; and such other factors that the court may determine to be relevant in an individual case. In re Marriage of Byall, 353 N.W.2d 103 (Iowa App. 1984).

The Iowa Supreme Court on September 29, 1989, entered an order prescribing uniform child support guidelines pursuant to federal Family Support Act of 1988, Pub. L. No. 100-485. The guidelines state that monthly income means gross income less certain deductions. The record shows Douglas's net monthly income is $806. Belinda has no income. The guidelines mandate $203.90 monthly child support for two children. This is an amount less than the trial court's award of $25 per week per child, which for

four and one-third weeks is $266. We affirm the trial court award. Douglas has not cross-appealed.

Belinda seeks attorney fees on appeal. An award of attorney fees is not a matter of right, but rests within the court's discretion and the parties' financial positions. In re Marriage of Kern, 408 N.W.2d 387, 390 (Iowa App. 1987). We are to consider the needs of the party making the request, the ability of the other party to pay, and whether the party making the request was obligated to defend the trial court's decision on appeal. In re Marriage of Castle, 312 N.W.2d 147, 150 (Iowa App. 1981). We award Belinda the sum of $500 for attorney fees and tax court costs to Douglas.

AFFIRMED AS MODIFIED.