IN THE COURT OF APPEALS OF IOWA

No. 6-689 / 95-1138

IN RE THE MARRIAGE OF DUANE W. BANTA, JR.
AND VICKIE ANN BANTA

Upon the Petition of
DUANE W. BANTA, JR.,

Petitioner-Appellee,

And Concerning
VICKIE ANN BANTA,

Respondent-Appellant.

FILED
MAR 2 3 1997
CLERK SUPREME COURT

Appeal from the Iowa District Court for Monona County, Michael S. Walsh, Judge.

Vickie Banta appeals from certain economic provisions of the parties' dissolution decree. **AFFIRMED AS MODIFIED.**

Paul W. Deck of Deck & Deck, Sioux City, for appellant.

Stephen W. Allen, Onawa, for appellee.

Considered by Sackett, P.J., Cady, and Vogel, JJ.

PER CURIAM

This is an appeal by a wife challenging the child support, alimony, and attorney fee provisions of the parties' dissolution decree.

Duane and Vickie Banta were married in 1983. They have two children, Valarie and Amanda. The parties separated in 1986. On January 29, 1987, an order was entered requiring Duane to pay child support of $150 per month.

The district court issued a dissolution decree for the parties on May 2, 1995. The court granted the parties joint legal custody of the children, with Vickie having primary physical care. Duane is self-employed as an over-the-road truck driver. The court found he had net monthly income of $450. Vickie is employed by K-Products. The court found she had net monthly income of $990. In this income range, the district court has some discretion in setting child support, and the court ordered Duane to pay child support of $150 per month. No alimony or attorney fees were awarded. Vickie now appeals.

I. Vickie contends the amount of child support awarded is inadequate. She believes the district court improperly calculated Duane's net monthly income. Duane admitted he had gross annual income of about $78,000. Business expenses were deducted from this amount. According to his affidavit of financial status, he claimed adjusted gross income of $14,760, or $1,230 per month. From this amount he deducted self-employment tax, $174 per month, and medical insurance, $609 per month. This gave Duane net monthly income of $447.

Our de novo examination of the exhibits shows medical insurance was deducted as a business expense to arrive at the amount considered as Duane's adjusted gross income. We believe the medical insurance was improperly deducted twice in calculating Duane's net monthly income. We also note Duane testified he expected to earn about $6,000 more in 1995 than in 1994. We determine he has adjusted annual gross income of $20,760, and net monthly income of about $1,488. Applying the child support guidelines, we find Duane should pay child support of $456 per month. We modify the parties' dissolution decree to reflect this change.

II. Vickie asks for alimony of $10 per month. She testified she would like to be able to go back to school. At the time of the trial, however, she had not yet looked into any courses of study. The parties here had been separated for nine years before the dissolution decree was entered. Vickie has full-time employment. Alimony is not an absolute right; an award depends upon the circumstances of the case. *In re Marriage of Whelchel*, 476 N.W.2d 104, 110 (Iowa App. 1991). We agree with the district court's decision not to award alimony in this case.

III. Vickie claims the district court abused its discretion by not awarding her trial attorney fees. Iowa trial courts have considerable discretion in awarding attorney fees. *In re Marriage of Hunt*, 476 N.W.2d 99, 103 (Iowa App. 1991). We find no abuse of discretion.

VI. Vickie seeks attorney fees for this appeal. We determine Duane should pay $500 for Vickie's appellate attorney fees.

We affirm the decision of the district court, except that we have modified to increase Duane's child support obligation. Costs of this appeal are assessed to Duane.

AFFIRMED AS MODIFIED.

Cady, J., and Vogel, J., concur; Sackett, P.J., dissents in part.

SACKETT, P.J. (dissenting in part)

I dissent in part. I would affirm the trial court.