

IN THE COURT OF APPEALS OF IOWA

No. 2-400 / 91-1619

IN RE THE MARRIAGE OF CARL R. JOHNSON
AND BONNIE L. JOHNSON

FILED

NOV 30 1992

CLERK SUPREME COURT

Upon the Petition of

CARL R. JOHNSON,

Petitioner-Appellee,

And Concerning

BONNIE L. JOHNSON,

Respondent-Appellant.

Appeal from the Iowa District Court for Floyd County,
Paul W. Riffel, Judge.

The respondent, Bonnie Johnson, appeals from various economic provisions of the parties' decree dissolving their marriage. **AFFIRMED AS MODIFIED.**

John G. Sorensen of Stanton & Sorensen, Clear Lake, for appellant.

J. Mathew Anderson of Laird, Heiny, McManigal, Winga, Duffy & Stambaugh, Mason City, for appellee.

Considered by Oxberger, C.J., and Hayden and Sackett,
JJ.

PER CURIAM

Respondent-appellant Bonnie L. Johnson challenges the economic provisions of a decree dissolving a thirty-year marriage. We affirm as modified.

Bonnie and petitioner-appellee Carl R. Johnson were married in 1962. Neither party brought property into the marriage and, other than a \$5,000 gift from Bonnie's grandmother, neither party had inherited property. Bonnie, who was born in 1941, has a degree from Luther College, is a certified teacher, and has taught school for nineteen years on both a full-time and part-time basis. At the time of trial, Bonnie had a teaching position and worked slightly more than on a half-time basis, earning an annual salary of \$15,000.

Carl, who was born in 1940, has Bachelor's, Master's and Doctorate degrees, and teaches history in the Charles City school system. He has taught full time for twenty-nine years. Carl earns an annual salary of \$39,000.

There were two children born to the marriage. The older child is emancipated. The younger child was a junior in college at time of trial.

The parties agreed to the division of some of their assets and an allocation of college expenses for their college-age daughter of sixty-five percent to Carl and thirty-five percent to Bonnie.

The trial court was asked to consider Bonnie's request for alimony, to allocate the real estate, which consisted of the farm home that had served as their personal residence during their marriage and adjoining acres, and their respective Iowa Public Employees Retirement accounts, and to award attorney fees.

I.

Bonnie asked for alimony of \$600 a month. The trial court made an award of token alimony of \$1 a month. Bonnie contends on appeal that she should have alimony of \$600 a month.

Spousal support or alimony may be granted in a dissolution of marriage decree. Iowa Code § 598.21(3). A purpose of spousal support or alimony is to rectify the inequities of a marriage, and to compensate a spouse who leaves the marriage at a disadvantage. In re Marriage of Earsa, 480 N.W.2d 84, 86 (Iowa App. 1991). We consider the property division and alimony together in evaluating their individual sufficiency. See In re Marriage of Griffin, 356 N.W.2d 606, 608 (Iowa App. 1984).

Bonnie is employed on a half-time basis. Bonnie testified because of her health she could not work full time. The trial court, however, found the admissible evidence did not support Bonnie's position she could only be employed part-time. We agree with the trial court's findings in this regard.

Carl's employment is probably more secure than Bonnie's employment. Carl also has made more substantial contributions to FICA during his twenty-nine year full-time employment. Bonnie has been employed outside the home for nineteen years. However, for most of those years, she has only worked outside the home on a part-time basis and her salary was less than Carl's, consequently, her FICA contributions have been less. There was no evidence introduced showing the effect of the respective differences of retirement benefits. If Bonnie worked full time, she and Carl would earn nearly equal salaries. Bonnie does not have children at home.

Alimony is not an absolute right, but must be assessed under the facts of each particular case. See In re Marriage of Fleener, 247 N.W.2d 219, 220 (Iowa 1976). This has been a long-term marriage. Carl had the primary career and Bonnie assumed more responsibility for the two children of the marriage than did Carl. The length of the marriage, and the fact a spouse has absented himself or herself from the job market to assume responsibilities for the home and children, are factors we consider in assessing alimony. See In re Marriage of Bethke, 484 N.W.2d 604, 608-09 (Iowa App. 1992). Carl has made more substantial FICA payments. We look to contributions made to retirement benefits in assessing the equities of a decision on the issue of alimony. See In re Marriage of Schissel, 292 N.W.2d 421,

427 (Iowa 1980); In re Marriage of Williams, 421 N.W.2d 160, 167 (Iowa App. 1988); In re Marriage of Voss, 396 N.W.2d 801, 803 (Iowa App. 1986). Bonnie, however, has not made substantial career sacrifices, has had outside employment during most of the marriage, and has an earning potential similar to Carl's. These are factors we consider. See Earsa, 480 N.W.2d at 86. Bonnie is apparently satisfied with part-time employment even though at the present time she has no more responsibilities for the children than does Carl. The token alimony protects her in the event her health should deteriorate. We will not disturb the trial court ruling on this issue.

II.

Bonnie's next contention is that the trial court should have allocated to her a portion of Carl's Iowa Public Employees Retirement account. At the time of trial, Carl's retirement account had accumulated credits of \$34,000 and Bonnie's retirement account had accumulated credits of \$9,400. The trial court provided Carl and Bonnie take their own account. Retirement benefits are properly considered in formulating an equitable division in a dissolution decree. See In re Marriage of Miller, 475 N.W.2d 675, 677 (Iowa App. 1991). Neither party challenges the valuation of their own account on the basis of accumulated credits. We have recognized that an Iowa Public Employees Retirement account may provide lifetime

benefits and a determination of its actual value at the time of a dissolution would require an actuary. See Miller, 475 N.W.2d at 678. A division apportioning future benefits is generally the fairest allocation because it assures retirement benefits accrued during marriage will be available for both spouses and will be equitably apportioned when they are drawn. See id.

However, without other evidence, we value the pensions only by accumulated credits.

Carl argues the allocation of the retirement benefits is equitable because in dividing the real estate the trial court allocated to Bonnie an additional \$10,000, and he alone is obligated to pay an \$8,500 note secured by a mortgage on their real estate. The loan was taken out to pay educational expenses for the parties' youngest child. There is a question about whether the trial court allocated this debt to Carl alone. We interpret the trial court decree to allocate this debt to Carl alone, and modify the decree to provide that Carl shall pay this debt and hold Bonnie harmless from it. With this modification, we find the property division with the values established by the trial court result is a nearly equal division of the property Carl and Bonnie accumulated. The division is equitable. We affirm, modifying only to clearly provide Carl is responsible for the \$8,500 loan made for their daughter's college education.

Bonnie requests attorney fees on appeal. We deny her request and determine she shall pay the costs on appeal.

AFFIRMED AS MODIFIED.

All judges concur except Hayden, J., who specially concurs.

HAYDEN, J. (specially concurring)

I concur in the result.