

FILED

JUN 26 1984

CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF HEIDI L. BREMER AND DAVID S. BREMER

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Upon the Petition of)

HEIDI L. BREMER,)

Petitioner-Appellee,)

Filed June 26, 1984

And Concerning)

DAVID S. BREMER,)

4-239
84-223

Respondent-Appellant.)

Appeal from the Iowa District Court for Bremer County - Ray E. Clough,
Judge.

Respondent husband appeals various provisions of the parties' dissolution
decree. **AFFIRMED AS MODIFIED.**

Ralph E. Laird III of Laird & Carney, Waverly, for respondent-appellant.

Dale E. Goeke of Boveia Law Offices, Waverly, for petitioner-appellee.

Paul W. Riffel of Leslie & Riffel, Waverly, guardian ad litem.

Heard by Oxberger, C.J., and Donielson and Schlegel, JJ.

Respondent husband appeals various provisions of the parties' dissolution decree. He asserts that he should have been given custody of the children and that the alimony, child support, and property division awards were inequitable. We affirm as modified.

David and Heidi Bremer were married in 1970. They are the parents of three children: Sarah (born in 1970), Beth (born in 1974), and Carolyn (born in 1977). In addition, Heidi has a son, David, born in 1967, from an earlier marriage; David has adopted this son; he has lived with the parties throughout the marriage.

David is a supervisor at a John Deere factory; his gross salary is slightly over \$50,000 per year. During most of the marriage Heidi has not been employed outside the house. At the time of trial she was enrolled in college classes to prepare her to enter the job market.

The dissolution decree placed the children in Heidi's custody. The trial court found that each party would be a fit and proper custodial parent, but noted that the two older children had expressed a preference to remain in Heidi's custody; they had characterized Heidi as more affectionate and more flexible than David. The court also noted that Heidi had had primary responsibility for the children's day-to-day care during the marriage. However, the court expressed concern over Heidi's allegedly messy housekeeping and over her history of minor emotional illness. Heidi has been diagnosed as having a manic-depressive condition due to a congenital chemical imbalance; however, the condition can be controlled with medication. In addition, it appears that her condition has improved significantly over the last few years.

The dissolution decree directed David to pay child support of \$225 per month for each of the four children until each child reaches age nineteen or graduates from high school, whichever occurs later, or continues post-secondary education as referred to in Iowa Code section 598.1(2). The decree also directed David to

pay Heidi alimony of \$500 per month until June of 1988 and \$100 per month thereafter until her death or remarriage.

Despite David's high salary, the parties had accumulated relatively little property. Their only significant asset was a house in which their equity was valued at about \$13,000. The decree directed that this house be sold, with the net proceeds divided equally between the parties. In addition, each party received an automobile, household furnishings, and personal effects. David brought this appeal.

I.

David first claims that he should have been given custody of the four children. After considering his argument in light of the factors listed in In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974), we conclude that the trial court was justified in giving custody to Heidi. The record supports the court's conclusion that Heidi has been the primary caretaker of the children. It is also clear that her emotional problems have significantly lessened during recent years. The record contains much uncontroverted testimony that Heidi is much more self-confident and self-assured than before. Finally, the fact that David and Sarah, the two oldest children, both expressed a strong preference to stay with Heidi is entitled to at least some consideration. Under these circumstances, we agree that the children's long-term best interests would be better served by giving their custody to Heidi.

II.

David also claims that the economic provisions of the decree as a whole are inequitable, specifically with regard to the property division, alimony, and child support. In considering the fairness of such provisions, we view them as an integrated whole. In re Marriage of Castle, 312 N.W.2d 147, 149 (Iowa Ct. App. 1981). We examine the facts of this case in light of the factors listed in Iowa Code §§ 598.21(1) (property division), 598.21(3) (alimony), and 598.21(4) (child support).

We find no reason to disturb the economic provisions of this decree. The division of property is equitable in view of the fact that Heidi will need to furnish a household for herself and the four children. The alimony award is also appropriate; it will give Heidi an opportunity to further her education and increase her earning capacity. Finally, we cannot say that the child support award, although generous, is excessively so. The necessary expenses incurred by Heidi for the children are undisputed as is the large disparity between the parties' incomes. We believe, however, that the award should continue until each child reaches age eighteen instead of age nineteen as ordered by the trial court. Iowa Code section 598.21(4) lists factors to be considered in ordering support for a "minor child." "Minor child," in turn, is defined in section 598.1(3) as any person under legal age which at all relevant times here was and is eighteen years of age. Iowa Code § 599.1. We therefore modify the decree so that David's child support obligation will continue until each child reaches age eighteen or graduates from high school, whichever occurs later, or continues post-secondary education as referred to in Iowa Code section 598.1(2). Any error committed by the trial court in determining David's disposable income is insignificant; the obligations imposed by the decree strike an equitable balance between Heidi's needs and David's ability to pay. The economic provisions of the decree are affirmed with the modification as to duration of child support as mentioned above.

Heidi requests an award for attorney fees incurred in this appeal. Such an award depends upon the relative financial circumstances of the parties. In re Marriage of Burham, 283 N.W.2d 269, 278 (Iowa 1979). Without determining what Heidi's attorney may charge, we order David to pay \$600 toward that obligation.

AFFIRMED AS MODIFIED.