

IN THE COURT OF APPEALS OF IOWA

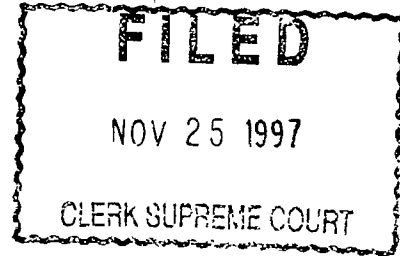
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No. 7-343 / 96-0919

**IN RE THE MARRIAGE OF KEVIN D. RENAUD
AND CAROLE LOUISE RENAUD**

Upon the Petition of
KEVIN D. RENAUD,
Appellant,

And Concerning
CAROLE LOUISE RENAUD,
Appellee.



Appeal from the Iowa District Court for Polk County, Jack D. Levine, Judge.

The petitioner appeals various economic provisions of the parties' dissolution decree. **AFFIRMED.**

Greg S. Noble of Murray, Jenkins & Noble, Des Moines, for appellant.

Susan L. Ekstrom, Des Moines, for appellee.

Considered by Cady, C.J., and Huitink and Streit, JJ.

STREIT, J.

This is an appeal from the alimony and child support provisions of a divorce decree. We affirm all issues on appeal, pursuant to Iowa Supreme Court Rule 9.

Kevin and Carole were married on September 6, 1975. They have two children, Melissa, born April 28, 1978, and Dustin, born September 1, 1982. At the time of trial, Kevin was forty and Carole was thirty-eight. For the past six years, Kevin has earned \$12.30 an hour at Tone's Spices. With his overtime wages, he earns approximately \$40,000 per year. Carole works as a veterinary assistant at the Avondale Animal Clinic earning approximately \$16,000 per year. Carole worked only part-time during the children's early years.

The April 26, 1996, divorce decree ordered Kevin to pay child support in the amount of \$743.21 per month, to be reduced to \$505.66 per month when only one minor child was in the home, and alimony to Carole of \$250 per month for six years.

On appeal Kevin argues the district court erred in awarding alimony. An award of alimony depends upon the circumstances of each case. *In re Marriage of Miller*, 532 N.W.2d 160, 162 (Iowa App. 1995). In addition to the statutory factors, the court considers the parties' present standard of living and balances the former spouse's ability to pay alimony against the other's needs to receive alimony. *See In re Marriage of Miller*, 524 N.W.2d 442, 445 (Iowa App. 1991). Alimony is sometimes used to remedy the inequities in a marriage and to compensate a spouse who leaves the marriage at a financial disadvantage. *In re Marriage of Geil*, 509

N.W.2d 738, 742 (Iowa 1993). The court should also consider the feasibility of the party seeking alimony becoming self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage. *In re Marriage of Debbler*, 459 N.W.2d 267, 270 (1990); Iowa Code § 598.21(3)(f). Appellate courts have affirmed awards of alimony in combination with a substantially equal property distribution following marriages of long duration. *See In re Marriage of Hitchcock*, 309 N.W.2d 432, 438 (Iowa 1981).

Carole needs alimony during the period when she is adjusting from a \$55,000 per year household to a \$16,000 per year household. It will take some time for Carole to be able to adequately support herself and obtain a style of living similar to what she shared with Kevin. *See In re Marriage of Christensen*, 543 N.W.2d 915, 919 (Iowa App. 1995); *In re Marriage of Berger*, 431 N.W.2d 387, 388 (Iowa App. 1988); *In re Marriage of Russell*, 473 N.W.2d 244, 247 (Iowa App. 1991). Carole and Kevin were married twenty years. During the marriage, Carole had primary responsibility for raising the children and for household duties. She worked part-time in addition to her family duties while the children were little. As a full-time employee, Carole earns less now than she would if she would have concentrated her energies on her career. Part of Kevin's success as an employee is attributable to Carole's efforts in caring for the family and home. Her need will dissipate as she adjusts to her new situation. Six years is an appropriate adjustment period.

Kevin argues the district court erred by including overtime hours in his income which was used to calculate his child support obligation. We hold it was not. Kevin's overtime wages are not speculative. *See In re Marriage of Brown*, 487 N.W.2d 331, 333-34 (Iowa 1992). Using Kevin's overtime wages in calculating his child support obligation does not result in an injustice between the parties. *Id.* at 333. Kevin argues the court should have taken the alimony paid by Kevin to Carole into consideration when calculating Kevin's child support obligation. Although we agree long-term alimony may properly be deducted from net income of the obligor for the purposes of calculating a child support obligation, we affirm the trial court in this case. *In re Marriage of Lalone*, 469 N.W.2d 695, 697 (Iowa 1991)(It is the discretion of the trial court whether to deduct alimony before determining child support). Both long-term and short-term alimony have been found properly deductible in fixing child support. *See In re Marriage of Hardy*, 539 N.W.2d 729, 732 (Iowa App.1995); *In re Marriage of McKamey*, 522 N.W.2d 95, 99 (Iowa App. 1994). Kevin did not raise this issue in a 179(b) motion. The same law should be incorporated for determining whether we should include alimony as income when determining the noncustodial parent's child support payments. This was the only way to preserve the issue. He did not do so and, thus, the issue is waived. Iowa R. Civ. P. 179(b); *Benavides v. J.C. Penney Life Ins. Co.*, 539 N.W.2d 352, 356 (Iowa 1995).

Carole has requested attorney fees on appeal. In deciding to award attorney fees on appeal, the court considers "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 Starcevic*, 522 N.W.2d 855, 857 (Iowa App. 1994). In light of the income differences, \$750 shall be paid by Kevin to Carole.

AFFIRMED.