FILED
AUG 27 1992
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 2-261 / 91-1855

IN RE THE MARRIAGE OF BRADLEY L. STEEGE AND CAROL A. STEEGE

Upon the Petition of

BRADLEY L. STEEGE,

Petitioner-Appellee,

And Concerning

CAROL A. STEEGE, n/k/a CAROL NIEWOHNER,

Respondent-Appellant.

Appeal from the Iowa District Court for Chickasaw County, Alan Pearson, Judge.

Wife appeals a postdissolution decree order which increased her current child support obligation to $470 per month effective June 1, 1991. **AFFIRMED.**

Judith O'Donohoe of Eggert, Erb, Ott, O'Donohoe & Frye, Charles City, for appellant.

Gary Boveia of Boveia Law Office, Waverly, for appellee.

Considered by Donielson, P.J., and Sackett and Habhab, JJ.

SACKETT, J.

This appeal follows a trial court determination of annual child support due under a dissolution decree that made provision for the annual adjustment of child support. The noncustodial parent, respondent-appellant Carol A. Steege, contends (1) the trial court did not properly compute net income prior to applying the guidelines, and (2) the trial court improperly applied the guidelines in effect when the determination of support was made, and the trial court should have applied the guidelines in effect at the time the original dissolution decree was entered. We affirm.

Carol's and petitioner-appellee Bradley L. Steege's marriage was dissolved in 1989. Bradley was awarded physical care of the parties' children, and Carol was ordered to pay child support. The decree provided the child support should be adjusted annually on June 1, of each year. Provision was made for the exchange of tax returns.

The parties were not able to agree to the amount of support due June I, 1991, and Bradley filed a petition asking the court to determine the level of child support. On October 7, 1991, the trial court made a determination of the net monthly income as defined by the child support guidelines of both Bradley and Carol and fixed Carol's child support obligation at $260 per month, effective as of

the date of the order. Bradley filed a rule 179(b) motion asking the court to amend its finding to order the increased child support be effective June 1, 1991, and to recompute Carol's net monthly income as defined by the child support guidelines to include $380 per month interest income. Carol agreed the increased support should be due commencing June 1, 1991, but argued the interest she earned should not be considered income to her for the purpose of applying the child support guidelines. The trial court granted Bradley's motion in its entirety, and increased child support as of June 1, 1991.

The issues were submitted on written information. We review de novo. There was no oral testimony; we, therefore, do not give any specific weight to the findings of the trial court based on the credibility of witnesses.

The first issue is whether the income figure to be used to compute child support due commencing June 1, 1991, is the current net monthly income of the parties as shown by their affidavits or the net monthly income of the parties as shown by the 1990 income tax returns.

This is not a determination made in an initial decree or a determination made under a petition for modification of child support. This child support review is directed by the final dissolution decree from which no appeal was taken. We, therefore, look to the language of that decree in determining this issue. The applicable language of the December 20, 1989 decree is:

> Respondent shall pay child support to Petitioner, . . . , in the sum of $172 per month, and continuing until each child reaches age 18, married, dies or becomes self-supporting. The amount of child support payments shall be adjusted annually in accordance with the Mandatory Guidelines for child support adopted by the Iowa Supreme Court. Adjustments shall take place with the month of June of each year.
>
> The parties shall exchange income tax returns no later than May 1 of each year, so that an appropriate computation of any change in child support can be made by the parties with the assistance of their attorneys.
>
> If the parties are unable to agree on the computation, either party may petition the court in writing, to make the determination for them. . . .

Carol argues while the decree does not spell out the time period to be utilized to determine net monthly income as defined by the child support guidelines, the fact the parties were ordered to exchange tax returns implies the time period is the calendar year immediately preceding the year the determination is made. Carol points out the child support guidelines, now in a form different than those in effect at the time the original decree was entered, do not specify the time period to be considered in determining the income of the parties. Bradley contends the child support should be determined from "the most reliable evidence" under the dictates of In re Marriage of Powell, 474 N.W.2d 531, 534 (Iowa 1991). He contends the determination made by the trial court was made from the most reliable evidence.

Carol further contends it was not correct to include in income for child support purposes income she earned when a life insurance policy was cashed or to include interest paid Carol by Bradley on the unpaid portion of a property division. Where there is evidence income is not a regular source of income, it may be excluded from computing net income if there is a finding to include it would create an injustice. See In re Marriage of Brown, ____ N.W.2d , ___ (Iowa 1992). We find it was correct for the trial court to utilize this figure in computing child support. See In re Marriage of Lalone, 469 N.W.2d 695, 696-97 (Iowa 1991).

The next issue is whether the trial court should have applied the child support guidelines in effect in December 1989 or June 1991. Carol argues the guidelines in effect at the time the original decree was entered should be applied. We disagree. See In re Marriage of McElroy, 475 N.W.2d 221, 224 (Iowa App. 1991). We affirm.

AFFIRMED.