

IN THE COURT OF APPEALS OF IOWA

No. 2-294 / 91-1435

FILED

SEP 29 1992

CLERK SUPREME COURT

IN RE THE MARRIAGE OF JULIE A. WEILAND AND RANDY L. WEILAND

Upon the Petition of

JULIE A. WEILAND,

Petitioner-Appellee/Cross-Appellant,

And Concerning

RANDY L. WEILAND,

Respondent-Appellant/Cross-Appellee.

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Appeal from the Iowa District Court for Buena Vista
County, Tom Hamilton, Judge.

The husband appeals the economic provisions of a
dissolution decree. **AFFIRMED.**

Edward Bjornstad of Connell & Duffy, P.C., Storm Lake,
for appellant.

Donald Hemphill of Hemphill Law Office, Spencer, for
appellee.

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

SACKETT, J.

The issue in this appeal from a decree dissolving a five-year childless marriage is whether the economic provisions made by the trial court are equitable. Appellant-respondent Randy L. Weiland contends the division was not equitable. Randy's position is the trial court should have set aside to him property he brought into the marriage before allocating the parties assets, and the trial court abused its discretion in awarding Julie attorney fees. Petitioner-appellee/cross-appellant Julie A. Weiland contends she should have been awarded alimony and should have attorney fees on appeal. We affirm on the appeal and on the cross-appeal.

This was a second marriage for both Randy and Julie. Julie has two children by her prior marriage. One child lived with the parties during the marriage. Julie received \$1,500 a year child support for that child.

In 1990, Julie had an annual income of \$10,000 and Randy had an annual income of \$27,109. Randy's and Julie's current employment is similar to the employment they had at the time of the marriage. Neither Julie nor Randy has made any substantial economic sacrifices during the marriage.

Randy had assets of about \$7,000 at the time of the marriage; Julie had few assets at the time of marriage. At the time of the dissolution, the trial court determined the parties' net worth to be \$45,834. The trial court

allocated assets of \$22,158.46 to Julie, and \$23,675 to Randy. The trial court did not award alimony. The trial court reasoned that Julie's claim for alimony, when considered with the property division that divided the value of Randy's premarital assets with Julie, was equitable. The trial court also ordered Randy to pay \$1,500 toward Julie's attorney fees.

We find the value placed on the assets by the trial court to be well within the permissible range of evidence and will not disturb them on appeal. See In re Marriage of Bare, 203 N.W.2d 551, 554 (Iowa 1973); In re Marriage of Griffin, 356 N.W.2d 606, 608 (Iowa App. 1984). The trial court has simplified our review by carefully itemizing each asset and specifying which assets go to each party. Julie does not earn what Randy does, but this disparity is not the result of the marriage. Randy had his current job when the parties were married. Julie does not have a high school education, but she was not robbed of this education by marital sacrifices. Both parties have worked outside the home during the marriage and have FICA coverage. While Julie may have contributed in a greater amount of the household tasks, the parties, from joint earnings, have supported Julie's son by a prior marriage with minimal support from his father. We consider the property and alimony issue together. See In re Marriage of Dahl, 418 N.W.2d 358, 359 (Iowa App. 1987); Griffin, 356 N.W.2d at

608. The partners in a marriage are "entitled to a just and equitable share of the property accumulated through their joint efforts." In re Marriage of Havran, 406 N.W.2d 450, 452 (Iowa App. 1987). We affirm the trial court's allocation of assets and refusal to award alimony.

Randy also challenges the trial court's decision to award Julie \$1,500 in attorney fees. Randy contends Julie should at least pay \$900, an amount Julie had withdrawn from a joint account, toward the \$1,500 fee. An award of attorney fees is not a matter of right, but rests within the court's discretion and the parties' financial positions. See In re Marriage of Kern, 408 N.W.2d 387, 390 (Iowa App. 1987). We are to consider 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 Castle, 312 N.W.2d 147, 150 (Iowa App. 1981). The trial court did not abuse its discretion in awarding Julie attorney fees.

We affirm on Randy's appeal and Julie's cross-appeal. Each party should pay his or her own attorney fees on appeal, and the costs on appeal are charged one-half to each party.

AFFIRMED.