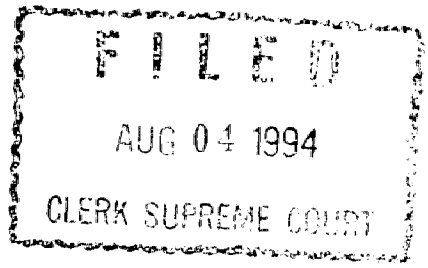
IN THE COURT OF APPEALS OF IOWA

No. 3-590 / 92-1897



IN RE THE MARRIAGE OF JAMES M. SLACK AND KERRY L. SLACK

Upon the Petition of
JAMES M. SLACK,

Petitioner-Appellant/Cross-Appellee,

And Concerning
KERRY L. SLACK,

Respondent-Appellee/Cross-Appellant.

Appeal from the Iowa District Court for Muscatine County, Margaret S. Briles, Judge.

Former husband appeals and former wife cross-appeals the economic provisions of the dissolution decree. **AFFIRMED.**

Douglas E. Johnston, Muscatine, for appellant.

Robert H. DeKock, Muscatine, for appellee.

Considered by Donielson, C.J., and Habhab and Huitink, JJ.

HABHAB, J.

Former husband, James M. Slack, appeals and former wife, Kerry L. Slack, cross-appeals from the economic provisions of the parties' dissolution decree. James contends the district court awarded Kerry excessive alimony and attorney fees. Kerry contends she should have been awarded more alimony. Kerry also seeks additional attorney fees at both the trial and appellate levels. We affirm.

James and Kerry Slack were married on August 2, 1962. The parties have two adult children born of the marriage. James is fifty years of age, in good health, and a twenty-plus-year employee of Iowa Electric Light & Power Company. His net income is approximately $420 per week.

Kerry is about forty-nine years of age and receives social security disability income of $781 per month. She suffered a stroke in 1977 and has been unemployed since then. She pays approximately $120 a month for COBRA insurance. She also has additional expenses for her copayment for her medication and medical bills.

On July 8, 1992, James filed a petition for dissolution of marriage. Hearing on the petition was held on October 14, 1992, and on October 27, 1992, the decree of dissolution was filed. The district court awarded Kerry $500 per month in alimony until James retires, Kerry remarries, or either party dies. Kerry was also awarded the marital residence and furniture, other personal property, a $2500 cash settlement, and a portion of James'

pension. James was awarded a vehicle, two life insurance policies, stock, an individual retirement account, and other personal property. The marital debts were divided. James was ordered to pay $1300 toward Kerry's attorney fees.

In this equity action, our review is de novo. Iowa R. App. P. 4. We have a duty to examine the entire record and adjudicate anew rights on the issues properly presented. In re Marriage of Steenhoek, 305 N.W.2d 448, 452 (Iowa 1981). We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses, but are not bound by them. Iowa R. App. P. 14(f)(7).

On appeal, James contends the awards of alimony and attorney fees are inequitable in light of the property distribution. Kerry claims her medical condition necessitates an award of additional alimony or insurance coverage provided by James.

Alimony is an allowance to the former spouse in lieu of a legal obligation to support that person. See In re Marriage of Hitchcock, 309 N.W.2d 432, 437 (Iowa 1981). An award of alimony depends upon the circumstances of each particular case. In re Marriage of Fleener, 247 N.W.2d 219, 220 (Iowa 1976). When determining the appropriateness of alimony we consider those factors listed in Iowa Code section 598.21(3). See In re Marriage of Hayne, 334 N.W.2d 347 (Iowa App. 1983). We consider property division and

alimony together in evaluating their individual sufficiency. In re Marriage of Dahl, 418 N.W.2d 358, 359 (Iowa App. 1987); In re Marriage of Griffin, 356 N.W.2d 606, 608 (Iowa App. 1984).

The parties here were married almost thirty years. It is unlikely Kerry will ever be able to be gainfully employed. After examining the property settlement and the financial conditions of the parties, as well as their reasonable living expenses, we conclude the award of $500 a month in spousal support to Kerry is equitable. We affirm the district court on this issue.

James also contends the district court abused its discretion in awarding Kerry $1300 for her trial attorney fees and the costs of her witnesses. Kerry claims she should also be entitled to additional trial attorney fees. She also requests $1500 in appellate attorney fees.

Iowa trial courts have considerable discretion in awarding attorney fees. In re Marriage of Giles, 338 N.W.2d 544, 546 (Iowa App. 1983). To overturn an award the complaining party must show that the trial court abused its discretion. Id. Awards of attorney fees must be for fair and reasonable amounts, In re Marriage of Willcoxson, 250 N.W.2d 425, 427 (Iowa 1977), and based on the parties' respective abilities to pay. In re Marriage of Lattig, 318 N.W.2d 811, 817 (Iowa App. 1982).

We affirm the district court's award to Kerry of $1300 for trial attorney fees and costs of her witnesses. This

is in addition to the $250 previously awarded Kerry for temporary fees. We determine each party should pay his or her own appellate attorney fees.

Cost of this appeal are assessed one-half to appellant and one-half to appellee.

AFFIRMED.