

FILED

JUL 26 1989

CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA
IN RE MARRIAGE OF CHERYL MAE FOX
AND RONALD JAMES FOX

Upon the Petition of)

CHERYL MAE FOX,)

Petitioner-Appellee,)

And Concerning)

RONALD JAMES FOX,)

Respondent-Appellant.)

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9-232
88-1345

Appeal from the Iowa District Court for Fayette County
(41622), James C. Bauch, Judge.

The husband has appealed a dissolution decree,
challenging economic provisions. **AFFIRMED.**

Gary J. Boveia, Waverly, for respondent-appellant.

J.D. Villont, West Union, for petitioner-appellee.

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

SCHLEGEL, J.

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In the dissolution of this nineteen-year marriage, the court awarded each of the parties roughly one-half of the marital assets. Respondent Ronald James Fox appeals, claiming that the division of property was inequitable, that the award of \$100 per month for 36 months as rehabilitative alimony was improper, and that the court failed to take into consideration a loan program available from his employer to finance the higher education of the children of this marriage. He asks that his support obligation to the children during their post-high school education be satisfied by that loan program and that he be relieved from the payment of child support during that time.

The criteria to be considered in awarding alimony have been codified in Iowa Code section 598.21(3). Under this section, we consider the length of the marriage, the age, physical, and emotional health of the parties, the distribution of property, the educational level of each party at the time the action is commenced, the earning capacity of the party seeking maintenance, the feasibility of the party seeking maintenance becoming self-supporting, and other relevant factors. Iowa Code § 598.21(3) (1987).

Upon our de novo review of the record, Iowa R. App. P. 4, we find that the division by the trial court was equitable. We agree that the petitioner, Cheryl Mae Fox,

is entitled to rehabilitative alimony for the purpose of pursuing further education to enhance her earnings potential. The trial court made the payment of a lump sum of \$5,000 to assist in her education conditional upon her entry into a program of further education. We agree that the payment should be conditional upon her entry into a program of higher education, and we hold that such payment shall be divided into two equal parts, one-half payable upon the commencement of her schooling, and the other payable at the end of the first year of such program. Excepting for this modification, we affirm the trial court on this issue.

We likewise affirm the trial court on the issue of child support. The sole use of the loan program of Ronald's employer will not fulfill his obligation to continue the support of his children under the provisions of Iowa Code section 598.1(2).

With the exception of the modification involving the lump sum payment of funds for the further education of Cheryl, we affirm the trial court in toto.

AFFIRMED.