FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF DONALD DEAN REIGHARD and REGINA ELVIRA REIGHARD

UPON THE PETITION OF **DONALD DEAN REIGHARD,**	)	Filed April 26, 1983
Petitioner-Appellant,	)	
AND CONCERNING **REGINA ELVIRA REIGHARD,**	)	3-22 2-68762
Respondent-Appellee.	)	

Appeal from Jefferson District Court, Dick R.Schlegel, Judge.

Petitioner-husband appeals from economic provisions of the parties' dissolution decree, asserting that no alimony should have been awarded when respondent-wife did not file a pleading or make a motion requesting alimony, and that the alimony award was inequitable. AFFIRMED.

Edwin F. Kelly of Kelly & Morrissey, Fairfield, for petitioner-appellant.

Michael R. Brown, Fairfield, for respondent-appellee.

Considered by Oxberger, C.J., and Donielson, and Snell, JJ.

PER CURIAM

Petitioner-husband appeals from economic provisions of the parties' dissolution decree, asserting that no alimony should have been awarded when respondent-wife did not file a pleading or make a motion requesting alimony, and that the alimony award was inequitable. We affirm.

The parties, Donald Reighard and Regina Reighard, were married in 1951. Donald filed his petition for dissolution of marriage in 1982 at a time when he was obligated to pay $400 per month to Regina pursuant to a decree of separate maintenance. Regina's answer contained no specific request for alimony or general request for equitable relief. Neither party filed a financial statement. Donald testified at trial that he was employed at a salary of $7.33 per hour. He testified that he had no substantial assets and owed money which had resulted in garnishments directed against him. He estimated that he had weekly expenses of approximately $200. Regina, aged 63 at the time of trial, testified that she had no income and had health problems involving a nervous condition and arthritis. She testified that she had not been employed for most of her married life and had debts of $76. She prepared an exhibit estimating her monthly expenses at $391. The trial court awarded her alimony of $400 per month.

Our review of this equitable proceeding is de novo. Iowa R. App. P. 4. We review the facts as well as the law and determine anew those rights properly presented and preserved. In re Marriage of Full, 255 N.W.2d 153, 156 (Iowa 1977). We give weight to the findings of the trial court, particularly when considering the credibility of witnesses, but we are not bound by them. Iowa R. App. P. 14(f)(7).

On our de novo review, we conclude that the trial court's award of alimony was proper under the circumstances, even in light of the absence of a request for alimony by pleading or motion. Iowa Code § 598.21(3), the relevant statutory authority for such an award, provides that "[u]pon every judgment of annulment,

dissolution or separate maintenance, the court may grant an order requiring support payments to either party" after considering various enumerated factors.

Under a prior statute providing that upon entry of a divorce decree the trial court may make such support order "as shall be right and just," the Iowa Supreme Court held that an award of alimony to respondent-wife was authorized regardless of whether alimony was requested in the pleadings. Zuver v. Zuver, 36 Iowa 190, 194 (1873). More recently that holding was reaffirmed under a statute providing that the trial court may make such order "as shall be right." Hopping v. Hopping, 233 Iowa 993, 996, 10 N.W.2d 87, 89 (1943). In Hopping the wife who was awarded alimony was the petitioner in the action, and her petition contained a general prayer for equitable relief, but the holding was based entirely on the statute. Id. at 996-1004, 10 N.W.2d at 89-93. We now hold that section 598.21(3) authorizes the trial court to award alimony in situations such as the one before us without regard to the pleadings.

In determining an appropriate amount of alimony to be awarded, if any, precedent is of little value, and each case must be decided on its own peculiar circumstances. In re Marriage of Fleener, 247 N.W.2d 219, 220 (Iowa 1976); In re Marriage of Romig, 207 N.W.2d 780, 783 (Iowa 1973). Guided by the factors set forth in section 598.21(3), we reach an independent determination that the trial court's award of $400 per month as alimony was appropriate under the facts mentioned heretofore.

AFFIRMED.