FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE MARRIAGE OF GEORGE ANTHONY SAFFRAN & MARY AGNES SAFFRAN

Upon the Petition of)
GEORGE ANTHONY SAFFRAN,) Filed February 22, 1979
Appellant,)
And Concerning)
MARY AGNES SAFFRAN,) 14 / 2-61683
Appellee.)

Appeal from Dubuque District Court - Karl Kenline, Judge.

Petitioner appeals economic provisions of divorce decree alleging that property settlement, alimony, and attorney fees awarded respondent were excessive. Affirmed as modified.

Eugene Davis & David J. Grace, of Davis, Scott & Grace, Des Moines, and C. J. May, Jr., Dubuque, for Appellant.

Michael J. Coyle, of Fuerste, Carew, Coyle, Juergens & Sudmeier, Dubuque, for Appellee.

Submitted to Oxberger, C. J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Petitioner George Saffran appeals decree dissolving his marriage to respondent Mary Saffran wherein she was awarded a lump sum of $158,000, $270 weekly alimony, and $7000 attorney fees. George contends these awards are excessive in view of Mary's limited contribution to the marital enterprise and in view of the substantial assets which he brought into the marriage. We affirm the decree with modification.

In reviewing the economic provisions of a divorce decree, we apply the criteria enumerated in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968) without consideration of fault. In re Marriage of Williams, 199 N.W.2d 339, 345 (Iowa 1972). Our review is de novo. Rule 4, Rules of Appellate Procedure. George argues his common law marriage to Mary began in 1958 rather than 1954 as found by trial court. We agree. Mary testified she did not go by the name of Mary Saffran until April, 1959. Furthermore, she filed a paternity suit in 1957 in which she alleged that she was an unmarried woman. On November 14, 1957, a judgment was entered in that action in which the court found that all of Mary's allegations were true. Under the principles of res judicata, Mary is bound by that judgment. We find, therefore, that the marriage commenced in 1958. George's next argument is that Mary is not entitled to any share in property he owned prior to the marriage. He overlooks the fact that a party's financial contribution to the marriage is only one factor to be considered. Schantz, supra at 405. Of equal importance are the parties' net worth and present income, as well as their health, earning capacity and standard of living.

The marriage of these parties was not a typical one. Mary testified she was never welcome in the Dubuque home which George shared with his mother and was forced to live in separate premises. After the birth of their three children, Mary decided to move to Florida, allegedly because of her sons' poor health. George acquiesced in this arrangement and financially supported his family in Florida. It is undisputed that Mary was almost solely responsible for raising the children. George devoted his attention to his construction business which developed into a highly profitable operation. At the time of trial, George's net worth was in excess of

$460,000. In the past few years, he has been winding down his construction business and selling his equipment. He anticipates his future income will consist of interest earned on certificates of deposit. The record does not establish that George has deliberately reduced his income in anticipation of the instant divorce. Furthermore, he has been awarded custody of the parties' minor child and has assumed financial responsibility for the children's college education. Under the circumstances, we think some modification of the decree is necessary.

Mary has a limited earning capacity and some health problems. She has made a significant contribution to the marriage through her efforts in raising the children. We find she should receive a $100,000 lump sum property settlement and $900 per month alimony to continue until her death or remarriage. We recognize that trial courts have considerable discretion in the allowance of attorney fees. In re Marriage of Winegard, 257 N.W.2d 609, 618 (Iowa 1977). Here, however, the award far exceeded the bill for services submitted by Mary's attorney. We accordingly reduce the amount of attorney fees awarded Mary to $3000.

Affirmed as Modified.