

IN THE COURT OF APPEALS OF IOWA

FILED

MAY 22 1984

CLERK SUPREME COURT

IN RE THE MARRIAGE OF GARY L. MEWES AND MARY D. MEWES

Upon the Petition of )

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GARY L. MEWES, )

Petitioner-Appellant, )

Filed May 22, 1984

And Concerning )

MARY D. MEWES, )

4-133

83-460

Respondent-Appellee )

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Appeal from the Iowa District Court for Hancock County - John F. Stone,  
Judge.

Petitioner husband appeals from the alimony obligation imposed on him by  
the parties' dissolution decree AFFIRMED

Philip F DeMoss, Sheffield, for petitioner-appellant

James P McGuire, Mason City, for respondent-appellee.

Considered by Oxberger, C J , and Donelson and Hayden, JJ.

Petitioner husband appeals from the alimony obligation imposed on him by the parties' dissolution decree. He claims that no alimony is warranted in this case. We affirm.

Gary and Mary Mewes were married in 1972. Gary farms with his father; he furnishes labor and in return receives a place to keep his hogs and enough corn to feed the hogs. Mary did not work during the marriage, but she now lives in California and earns \$150 per week housecleaning. The trial court divided the parties' personal property. They do not own any real property. The court also directed Gary to pay a property settlement of \$5,000, alimony of \$200 per month, \$200 toward Mary's attorney fees, and court costs. Gary has appealed.

The only issue in this appeal concerns the \$200 monthly alimony award. We consider the propriety of this provision in light of the factors listed in Iowa Code section 598.21(3). We conclude the award should be affirmed. Gary's protestations of inability to pay this amount are belied by the fact that he admits financially supporting a woman and her children now living with him. In any event, we believe his financial resources in connection with Mary's needs are sufficient to justify the alimony decree.

Mary requests an award of appellate attorney fees. Such an award depends on the relative financial circumstances of the parties. In re Marriage of Burham, 283 N.W.2d 269, 278 (Iowa 1979). Without determining what Mary's attorney may charge, we order Gary to pay \$350 toward that obligation.

AFFIRMED.

All judges concur, except Oxberger, C.J., who dissents.

**OXBERGER, C.J.**, (dissenting).

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I respectfully dissent. Gary has made less than \$6000.00 annually for the past four years. Mary earns \$7500.00 annually. Gary recently filed for bankruptcy. He maintains a subsistence life-style. I do not find any alimony appropriate.