

IN THE COURT OF APPEALS OF IOWA

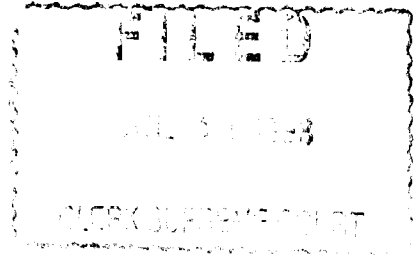
No. 8-154 / 97-0807

Filed July 31, 1998

**IN RE THE MARRIAGE OF GORDON SPARKS
AND JULI ANN SPARKS**

Upon the Petition of
GORDON SPARKS,
Appellee,

And Concerning
JULI ANN SPARKS,
Appellant.



Appeal from the Iowa District Court for Scott County, John A. Nahra, Judge.

Juli Ann Sparks appeals from the provisions of the parties' dissolution decree.

AFFIRMED AS MODIFIED.

Matthew Boles of Parrish, Kruidenier, Moss, Dunn & Montgomery,
Des Moines, for appellant.

Harold J. Delange II, Davenport, for appellee.

Considered by Sackett, P.J., and Huitink and Vogel, JJ.

HUITINK, J.

Juli Ann Sparks appeals from the economic provisions of the decree dissolving her marriage to Gordon sparks. We affirm as modified.

I. Background Facts and Proceedings.

Gordon Sparks, born September 13, 1956, and Juli Sparks, born August 26, 1958, were married in April 1975. The parties have five children, three of whom were minors at the time of the dissolution.

Gordon is employed as a systems analyst at Mid American Energy. His approximate net monthly income is \$2470. Gordon has his high school diploma and has attained some college credit. Juli is employed as a real estate sales person, receiving a \$200 weekly draw on commissions. Her education includes a GED and some college credit.

The dissolution decree, entered on April 3, 1997, awarded Juli physical care of the three minor children. Gordon's child support obligation was set at \$249.80 per week. The court's division of marital assets and liabilities resulted in net property distributions of approximately \$5426.03 to Gordon and \$6942.95 to Juli. Neither party was awarded alimony or attorney fees.

In this appeal, Juli contends the district court erred in failing to award her alimony. She cites the disparity between the parties' income, the length of the marriage, and her lack of formal education or training as justification for an alimony award.

II. Standard of Review.

Our review of this equitable action 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).

III. Alimony.

Alimony is an allowance to a former spouse in lieu of an obligation to support that person. *See In re Marriage of Hitchcock*, 309 N.W.2d 432, 437 (Iowa 1981). When determining the appropriateness of alimony, the court must consider “(1) the earning capacity of each party; and (2) present standards of living and ability to pay balanced against the relative needs of the other. *In re Marriage of Miller*, 524 N.W.2d 442, 445 (Iowa App. 1994).

Alimony is not an absolute right, an award depends upon the circumstances of each particular case. *In re Marriage of Fleener*, 247 N.W.2d 219, 220 (Iowa 1976). The factors listed in Iowa Code section 598.21(3)(1995) are considered in making the discretionary award of alimony. *See In re Marriage of Hayne*, 334 N.W.2d 347, 350 (Iowa App. 1983). Alimony may be used to remedy inequities in a marriage and compensate a spouse who leaves the marriage at a financial disadvantage. *In re Marriage of Geel*, 509 N.W.2d 738, 742 (Iowa 1993).

We consider alimony and property distribution together in assessing their individual sufficiency. They are neither made nor subject to evaluation in isolation from one another. *In re Marriage of McLaughlin*, 526 N.W.2d 342, 345 (Iowa App. 1994). Following a marriage of long duration, we have affirmed awards of substantially equal property distribution and alimony, especially where the disparity in earning capacity has been great. *In re Marriage of Geil*, 509 N.W.2d at 742.

An alimony award will differ in amount and duration according to the purpose it is designed to serve. *In re Marriage of Francis*, 442 N.W.2d 59, 62 (Iowa 1989). Traditional or permanent alimony is usually payable for life or for so long as the dependent spouse is incapable of self-support. *Id.* at 64. One purpose of traditional alimony is to provide the receiving spouse with support comparable to what he or she would receive if the marriage continued. *Id.* at 63. Rehabilitative alimony may be of limited or extended duration, depending upon the needs of the economically dependent spouse. *Id.* at 64. A rehabilitative alimony award is a means of supporting the financially dependent spouse through a period of education or training following divorce, so the receiving spouse may achieve self-sufficiency. *Id.* at 63. Reimbursement alimony, similar to a property award, compensates the receiving spouse for economic sacrifices he or she made which directly enhanced the future earning capacity of the other spouse. *Id.*

Juli requests, at a minimum, she be awarded rehabilitative alimony. She suggests \$300 per month for three years.

Upon reviewing the record, we find transitional alimony is appropriate. *See In re Marriage of Smith*, 573 N.W.2d 924, 927 (Iowa 1998)(stating “rehabilitative” alimony award is interchangeable with “transitional” alimony award). The parties were married twenty-two years, during which time Juli has had no significant earnings history or formal education which would make her self sufficient. At the time of trial, Juli had started a new job as a real estate sales person. A transitional alimony award will afford Juli the opportunity to gain the skills and experience necessary to achieve reasonable self-sufficiency.

The amount of this award, however, must be compatible with Gordon’s ability to pay. Although there is a significant disparity between the parties’ incomes, Gordon’s substantial child support obligation limits his ability to pay alimony without compromising his own subsistence. Based on these considerations, we determine Gordon should pay Juli \$200 per month for two years as transitional alimony. We accordingly modify the decree to award Juli transitional alimony in the amount of \$200 per month for two years.

The decision of the district court is affirmed as modified.

AFFIRMED AS MODIFIED.