

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF LUCINDA S. WEBER AND JOHN N. WEBER

Upon the Petition of

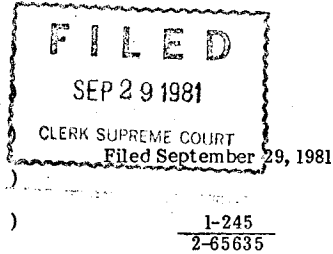
LUCINDA S. WEBER,

Petitioner-Appellant,

And Concerning

JOHN N. WEBER,

Respondent-Appellee.



Appeal from Boone District Court - Paul E. Hellwege, Judge.

Petitioner appeals from the property division and child support provision of the dissolution decree. AFFIRMED IN PART; MODIFIED IN PART; AND REMANDED.

Mark W. Bennett of Allen, Babich & Bennett, Des Moines, for petitioner-appellant.

James A. Brewer of Hegland, Newbrough, Johnston, Brewer & Maddux, Ames, for respondent-appellee.

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

The petitioner appeals from the property division and child support provision of the dissolution decree entered July 11, 1980. We affirm in part, and modify in part, and remand.

Our review is de novo. Iowa R. App. P. 4. It is our responsibility to determine whether the trial court's decree makes an equitable and just award of child support and division of property. In re Marriage of Cooper, 225 N.W.2d 915, 919 (Iowa 1975); In re Marriage of Zoellner, 219 N.W.2d 517, 523 (Iowa 1974).

The parties were married on April 13, 1974. The petitioner has a daughter by a prior marriage born January 9, 1971. The parties have twin sons, born August 29, 1977. The trial court awarded custody to the petitioner.

The parties have no real property, and little personal property. They have a debt of \$4508, secured by several horses and a savings account of \$5000. The trial court awarded the parties' savings account of \$5000, life insurance policies with cash dividend values of approximately \$2400, and personal property in his possession to the respondent. It awarded the parties' horses and personal property in her possession to the petitioner. Petitioner was ordered to sell two of the horses, and all equipment for the horses, and to withdraw \$1100 from the two savings accounts in the boys' names, and apply these proceeds to the horse loan. After the application of the \$1100, the liability for the loan was split one-third to the petitioner and two-thirds to the respondent, with respondent to pay off petitioner's one-third and receive a lien on her property for such amount. Respondent was ordered to pay other debts totaling approximately \$2000. We do not find trial court's division of the property and division of the liability for the debts was so inequitable that we should modify it.

The trial court ordered the respondent to pay \$250 per month child support for the two boys. We consider the criteria set out in § 598.21, The Code, and In re Marriage of Zoellner, supra. We also note that the petitioner must pay \$65 per week for child care in order to work, and that the respondent pays no rent. The trial court found that the respondent's earning capacity is \$12,000 per year, and that petitioner's net income is \$7080 per year. The petitioner's testimony and amended financial statement show that her expenses are \$980 per month. In light of the above circumstances, the award of child support is increased to \$320 per month for the two boys. If one of the twins becomes independent and leaves home before the other, then child support payments

should be reduced to \$250 per month. During the time that respondent is liable for child support payments, he must name the twins as beneficiaries of his existing life insurance policies. We also order respondent either to carry adequate health insurance for the twins during the time he is liable for child support payments or to be liable for one-half of any medical or dental expenses incurred on behalf of the twins. All other aspects of the trial court decree are affirmed.

Costs of this appeal are to be paid by the respondent.

AFFIRMED IN PART, MODIFIED IN PART, AND REMANDED.