FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 2-239 / 91-1417

IN RE THE MARRIAGE OF NANCY LEE SCHROEDER AND ROBERT HAUG SCHROEDER

Upon the Petition of

NANCY LEE SCHROEDER,

Appellant,

And Concerning

ROBERT HAUG SCHROEDER,

Appellee.

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Appeal from the Iowa District Court for Polk County, Dale B. Hagen, Judge.

Nancy Schroeder appeals a district court decision dismissing her application for modification of the parties' dissolution decree. **AFFIRMED.**

James S. Blackburn of Carney, Hudson, Williams, Blackburn & Grask, Des Moines, for appellant.

Robert J. Kromminga, Des Moines, for appellee.

Considered by Hayden, P.J., and Sackett and Habhab, JJ. Donielson, J., takes no part.

HABHAB, J.

FACTS

Robert and Nancy Schroeder were married on April 28, 1957, and divorced on June 10, 1975. At the time of the dissolution, Robert worked as the regional group and pension manager for Principal Financial. Robert earned $45,530.40 in 1971; $48,225.59 in 1972; $66,620.84 in 1973; and $80,683 in 1974. The district court stated Robert's income was expected to continue to increase within this range. During the marriage, Nancy did not work outside the home and had no special skills. The court found Nancy had an earning capacity; however, if she were to become employed, her earnings would not be substantial.

The dissolution decree ordered Robert to pay Nancy $200 per month in child support for each of the parties' two children and $800 per month in alimony. As the support requirement for each child ended, the amount of alimony Nancy received increased by $200. The court ordered the payment of alimony to continue until Nancy dies or remarries. Robert is currently paying $1200 per month in alimony. The court also ordered Robert to name Nancy as the beneficiary of a $125,000 life insurance policy until his alimony obligation ended.

Robert has continued as regional group and pension manager for Principal Financial, the same position he held at the time of the dissolution. Including his wages and bonuses, he earned $219,242 in 1987; $212,315 in 1988;

$249,665 in 1989; and $239,106 in 1990. Nancy is employed as a sales clerk in a golf shop. She earned $13,020 in 1987; $13,674 in 1988; $12,120 in 1989; and $13,272 in 1990.

Nancy suffers from degenerative osteoarthritis in her knee. This health condition affects her ability to work as it is aggravated when she stands on her feet. Nancy also has major dental problems. She suffers from gum disease and has lost several teeth as a result of this problem.

Nancy filed a petition to modify the dissolution decree alleging there had been a substantial change of circumstances necessitating modification of Robert's alimony obligation. Robert answered and sought termination or a reduction in his support obligation.

The matter came for trial on June 18, 1991. On August 15, 1991, the district court dismissed both Nancy's petition to modify and Robert's counterclaim. It concluded neither party proved a substantial change of circumstances which warranted modifying the dissolution decree. It found the dissolution decree contemplated an increase in Robert's earnings. It further found Nancy's medical problems to be those associated with the aging process and, therefore, held the court had contemplated such problems when the decree was entered.

Nancy appeals. We affirm.

ANALYSIS

I. Modification.

Nancy argues the district court erred in not finding the increase in Robert's income and assets to be a material and substantial change in circumstances which warranted modification of the alimony provision in the dissolution decree. We disagree.

Modification of a dissolution decree is only allowed when there has been a material and substantial change in circumstances since the original decree. Mears v. Mears, 213 N.W.2d 511, 514-15 (Iowa 1973). "The trial court has reasonable discretion in determining whether modification is warranted and that discretion will not be disturbed on appeal unless there is a failure to do equity." In re Marriage of Kern, 408 N.W.2d 387, 389 (Iowa App. 1987) (citing In re Marriage of Vetternack, 334 N.W.2d 761, 762 (Iowa 1983)).

The principles enumerated in Vetternack and applied in Kern are applicable here as well:

> A number of principles emerge from our cases: (1) there must be a substantial and material change in the circumstances occurring after the entry of the decree; (2) not every change in circumstances is sufficient; (3) it must appear that continued enforcement of the original decree would, as a result of the changed conditions, result in positive wrong or injustice; (4) the change in circumstances must be permanent or continuous rather than temporary; (5) the change in financial conditions must be substantial; and (6) the change in circumstances must not have been in the contemplation of the trial court when the original decree was entered.

Vetternack, 334 N.W.2d at 762.

The district court concluded there had not been a material and substantial change in circumstances to allow a modification of the dissolution decree. From our de novo review, we agree the decree should not be modified. We find the financial circumstances of both parties as they exist today were within the contemplation of the district court when the original decree was entered and do not constitute a material and substantial change in circumstances. We affirm the district court on this issue.

II. Attorney Fees.

Nancy argues the district court erred in failing to order Robert to pay her attorney fees at the district court level. She also asserts Robert should be ordered to pay her appellate attorney fees. Robert maintains Nancy should be ordered to pay his appellate attorney fees. We disagree with the contentions of both parties.

Iowa trial courts have considerable discretion in awarding attorney fees. In re Marriage of Giles, 338 N.W.2d 544, 546 (Iowa App. 1983). To overturn an award the complaining party must show the trial court abused its discretion. Id. Awards of attorney fees must be for fair and reasonable amounts, In re Marriage of Willcoxson, 250 N.W.2d 425, 427 (Iowa 1977), and based on the parties' respective abilities to pay. In re Marriage of Lattig, 318 N.W.2d 811, 817 (Iowa App. 1982).

We are unable to conclude the district court abused its discretion in ordering each party to pay his or her own attorney fees. We affirm the district court. The parties shall each pay his or her own attorney fees on appeal.

CONCLUSION

After considering all issues presented, we affirm the district court.

Costs of this appeal are taxed to the appellant.

AFFIRMED.