FILED
OCT 05 1993
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 3-089 / 92-1235

000541

IN RE THE MARRIAGE OF MICHELLE LYNNE VENTEICHER AND KENNETH L. VENTEICHER

Upon the Petition of
MICHELLE LYNNE VENTEICHER,

Appellee,

And Concerning
KENNETH L. VENTEICHER,

Appellant.

Appeal from the Iowa District Court for Monona County, Phillip S. Dandos, Judge.

The husband appeals the child support provision of the parties' dissolution decree. **AFFIRMED AS MODIFIED.**

W. J. Giles, III, Sioux City, for appellant.

Thomas R. Mohrhauser, Mapleton, for appellee.

Considered by Oxberger, C.J., and Schlegel and Habhab, JJ.

000542

SCHLEGEL, J.

The husband appeals the child support provision of the parties' dissolution decree, arguing the district court overestimated his net monthly income--specifically with respect to his farming operation. He also contends the court should have deviated from the child support guidelines after considering the time Ken has the children and Michelle's potential income.

Michelle and Ken were married January 13, 1984, while both were freshmen at Iowa State University. They have four children, Bridget, born June 17, 1984; Megan, born May 31, 1987; Courtney, born January 9, 1989; and Rachel, born October 3, 1990. After attending Iowa State for one year, the couple moved to Sioux City. Ken continued his education for a year at Western Iowa Tech and received a diploma in beef production and management in 1985. Michelle attended Western Iowa Tech for two years and Morningside College for a year and a half. She received a B.S. in accounting, graduating magna cum laude.

Ken has held nine different jobs since the couple married. He is currently employed as a laborer earning seven dollars per hour at Midwest Industries. Michelle cares for the parties' four children and does not engage in outside employment beyond accounting bookwork from which she earns $70 to $90 per month. The couple bought a farm for $60,000 in 1990.

000543

Michelle and Ken were divorced on May 5, 1992. The farm was awarded to Ken, but the parties had no equity in it. Michelle was awarded custody of the four children. Ken's visitation includes alternate weekends, six weeks in the summer, and various holidays. For child support, the court followed the guidelines for four children and ordered Ken to pay 51.5 percent of his income. The court determined Ken's net monthly income to be $1238.26, deciding $306.66 was obtained monthly from the farm. Ken filed a timely motion for expanded findings of fact and conclusions of law. The court denied this motion, and Ken now appeals. We affirm as modified.

Our review in this case is de novo. Iowa R. App. P. 4. We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses. Iowa R. App. P. 14(f)(7). We are not bound by these determinations, however. Id. Prior cases have little precedential value, and we must base our decision primarily on the particular circumstances of the parties presently before us. In re Marriage of Weidner, 338 N.W.2d 351, 356 (Iowa 1983).

Having studied the record in this case, we agree with Ken's contention that the trial court overestimated his net monthly income--particularly with regard to the income derived from the farming operation. While the trial court determined Ken's net monthly income from the farm to be $306.66, the parties' tax returns indicate otherwise. With

the exception of 1988--in which the farm produced a very modest income--the record reveals the operation of the farm has resulted in loss for the years 1986 through 1991, inclusive.

Even more importantly, however, the record indicates Ken's ability to derive income from the farm has decreased following the parties' division of assets. Michelle has been awarded a portion of the income-producing property from the farm as part of the parties' stipulated property division. The appraisal conducted by Helvig Agricultural Service by agreement of the parties reveals the total livestock of the farm consists of twenty-one Angus/Limo cows, five Angus/Limo heifers, one bull-Limo, nineteen calves, one pony, one black mare, one brown filly colt, one quarter horse, and one bay gelding. The portion of the livestock delivered to Michelle as part of the property settlement--which can no longer be used by Ken to generate income on the farm--includes four 1991 heifers, five bred cows, and a black mare (as well as a bay gelding).

"Property awards may be considered when evaluating a parent's child support obligation." In re Marriage of Blume, 473 N.W.2d 629, 633 (Iowa App. 1991) (citing In re Marriage of Mead, 429 N.W.2d 564, 565 (Iowa App. 1988)). In awarding child support, the trial court should take into consideration the fact that the custodial parent has been awarded a portion of the noncustodial parent's farm and the effect such an award would have on the noncustodial

000545

parent's farming income. Blume, 473 N.W.2d at 632. Accordingly, we find the trial court incorrectly concluded that Ken's net monthly income included $306.66 from the farming operation, and we adjust Ken's net monthly income downward by this amount. In doing so, we adopt the trial court's finding that Ken nets $931.60 from his employment at Midwest Industries.

Before determining Ken's child support obligation under the existing child support guidelines, we turn our attention to Ken's concern with the trial court's determination that Michelle's net monthly income is between $70 and $90. Although the trial transcript contains credible testimony reflecting that Michelle's current earning capacity is between $18,000 and $20,000, the trial court determined:

> Considering the present young age of the four children, the Court concludes it is better she stay home and provide for their care, rather than now seek additional or other employment. She may be expected to do so later at which time Kenneth should be permitted to seek modification of support without showing a further substantial change of circumstances.

We agree with the court's decision in this regard and deny Ken's request to consider Michelle's earning capacity at this time when applying the child support guidelines to this case. Having clarified this point, application of the guidelines reveals Ken's child support obligation is $476.98 per month (51.2 percent of $931.60)--instead of $637.70 as determined by the trial court. This reduction

in Ken's child support obligation is necessary to achieve equity under the facts of this case.

In the event Ken's farming operation becomes profitable in the future or Michelle secures employment after the children have grown, the parties can seek modification of the dissolution decree pursuant to Iowa Code section 598.21(8)(a) (1991) upon a showing of a substantial change in circumstances.

AFFIRMED AS MODIFIED.