



IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF STEVEN R. UNDERWOOD
and JONI D. UNDERWOOD

Upon the Petition of	)	
STEVEN R. UNDERWOOD,	)	
Petitioner-Appellant,	)	Filed March 31, 1986
And Concerning	)	<u>5-629</u>
JONI D. UNDERWOOD,	)	84-1940
Respondent-Appellee.	)	

Appeal from the Iowa District Court for Pottawattamie County (No. 27-194)

- Glen M. McGee, Judge.

Petitioner appeals from the provisions of the decree dissolving the parties' marriage. **AFFIRMED.**

James M. Haney, Omaha, Nebraska, for petitioner-appellant.

Robert J. Laubenthal, of Smith, Peterson, Beckman & Willson, Council Bluffs, Iowa for respondent-appellee.

Considered by Oxberger, C.J., and Donielson and Snell, JJ.

OXBERGER, C.J.

Petitioner appeals provisions of the decree dissolving the parties' marriage. He contends the trial court erred: (1) in considering petitioner's stock in his father's company in determining the property division; (2) in assigning certain marital debts to petitioner; and (3) in fixing \$450 per month as child support to be paid by petitioner. We affirm.

Steven and Joni were divorced after six years of marriage. Two children were born during that time: Steven Michael, born February 22, 1981, and Kyler Davies, born September 17, 1983. Steven and Joni were awarded joint custody with physical custody remaining with Joni subject to Steven's reasonable rights of visitation.

Steven was required to pay monthly child support of \$225.00 per child. He was also assessed \$350.00 in delinquent temporary child support payments. He had not begun support payments until required to by court order. Joni was to continue to maintain health insurance policies on the children through her employer. She was held entitled to claim the children on her income tax returns also.

In making its disposition of marital property and its child support award, the trial court noted that credible evidence indicated that Steven had more income than shown on his financial affidavit, such as undisclosed bonuses. The court also observed that Steven had come into the marriage with a \$4,000.00 judgment against him which was paid for during the marriage.

Joni was awarded the family residence and was required to assume an outstanding balance of \$13,944.23 on the land contract. Joni had been making all of the payments on the home since the separation.

Stock in Steven's family business.

Steven contends the trial court violated section 598.21(2) of the Code (inheritance exemption) by considering his stock in his family's business in determining an equitable division of the property. The trial judge did not address the issue in his findings. In our de novo review, we find that the 16% share Steven holds in the family business was a marital asset. Steven worked with his father in the family business all the time following Steven and Joni's marriage in 1978. We find that when Steven, his brothers, and his father decided to incorporate the business and allocated Steven 16% of the stock, it was in recognition of Steven's contribution in building the company.

Division of Marital Assets

We have determined Steven's stock in the family business to be a marital asset. The award to Joni of all of the \$15,000 equity in the family home is equitable in light of the award to Steven of the \$25,000 worth of stock.

Marital Debt Allocation

Petitioner's arguments disputing the allocation of debts of the marriage are betrayed by the nature of these debts. As respondent notes, more than 80% of this liability was incurred for petitioner's benefit alone. A substantial portion of the remaining debt was incurred due to respondent's need to reinstate utility service for herself and the children after petitioner had the service disconnected.

Steven closed the couple's savings account and received the deposits of \$600. Joni denies he gave her any of the money. After the parties separated, Steven sold his motorcycle to an unknown purchaser and bought a Corvette. We find the trial court's order directing Steven to pay the debts of the parties to be reasonable.

Child Support

Steven objects to paying \$225 per child per month as excessive child support

representing over 50% of his monthly disposable income.

The trial court found that Steven had more income than the \$12,000 estimate he made regarding his 1984 income. Joni testified that Steven received cash amounts for work not included in the \$12,000 figure plus unreported bonus payments. Joni's income was \$1,320 per month. We find the child support award is reasonable.

AFFIRMED.