IN THE COURT OF APPEALS OF IOWA

No. 3-116 / 92-419

FILED
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CLERK SUPREME COURT

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IN RE THE MARRIAGE OF DAWN M. CHAMPLIN AND EDWARD C. CHAMPLIN

Upon the Petition of
DAWN M. CHAMPLIN,

Appellee,

And Concerning
EDWARD C. CHAMPLIN,

Appellant.

Appeal from the Iowa District Court for Cass County, Glen M. McGee, Judge.

Edward appeals the dissolution decree which (1) requires him to pay rehabilitative alimony for eighteen months, (2) requires him to pay fifty percent of the maintenance and repair costs for the family home, and (3) awarded Dawn one-half the value of Edward's pension fund as of the date of dissolution. **AFFIRMED.**

Terrance G. Rutherford and Karen L. Mailander of Howard & Rutherford, Atlantic, for appellant.

Thomas J. Anderson of McMartin & Anderson, Harlan, for appellee.

Considered by Donielson, P.J., and Hayden and Sackett, JJ.

Dawn and Edward Champlin were married on December 4, 1971. At the time, Dawn was twenty years old, and Edward was nineteen. The parties have two children, Brian, born October 3, 1974, and Corey, born September 20, 1977. After Edward moved out of the family home in March 1991, the parties stipulated they would have joint custody of the children with Dawn assuming primary physical care.

Edward was employed throughout the marriage. At the time of the divorce Edward earned a net income of $1575 per month from his job at Metz Baking Co. Before the marriage, Dawn completed a secretarial course at Iowa Western. She worked as a secretary for one year before they had children. Following Brian's birth, Dawn remained at home. In addition to raising their own two children, Dawn began operating a child-care business out of the family home ten to twelve years before the dissolution. Dawn earned a net income of $540 per month at the time of the divorce.

The dissolution decree ordered Edward to pay $578 per month in child support. The court required Edward to pay rehabilitative alimony in the amount of $400 per month for eighteen months. Dawn stated she would like to return to school and pursue a career as a secretary. The court awarded the family home to Dawn until the youngest child reaches eighteen or graduates from high school, whichever occurs later. The title to the home was transferred for the parties to hold as tenants-in-common. There is no

mortgage indebtedness on the property. Each party was ordered to pay one-half the maintenance and repair costs for the family home. The court also transferred fifty percent of the value of Edward's pension fund at the time of dissolution to Dawn.

Edward appeals. He argues the trial court should not have awarded alimony and one-half the value of his pension to Dawn. He contends since Dawn uses the family home for her child-care business, he should either receive rent or not be responsible for maintenance expenses.

Our scope of review in dissolution cases is de novo. In re Marriage of Craig, 462 N.W.2d 692, 693 (Iowa App. 1990). While not bound by the trial court's determination of factual findings, we give them weight. Id.

I. **Rehabilitative Alimony.** Alimony is not an absolute right; an award depends upon the circumstances of each particular case. In re Marriage of Whelchel, 476 N.W.2d 104, 110 (Iowa App. 1991). Rehabilitative alimony is a way of assisting an economically dependent spouse through a limited period of education or redevelopment of previous skills following divorce. In re Marriage of Peterson, 491 N.W.2d 535, 538 (Iowa App. 1992); In re Marriage of Farrell, 481 N.W.2d 528, 530 (Iowa App. 1991) (citing In re Marriage of Francis, 442 N.W.2d 59, 63 (Iowa 1989)).

Dawn has expressed a desire to return to school to update her secretarial skills. She has been absent from the job market for an extended period of time. At the time

of the dissolution, Dawn had been removed from the job market for seventeen years. During that period Dawn lost all chance for income increases and pension rights. See In re Marriage of Beeh, 214 N.W.2d 170, 174 (Iowa 1974). The limited alimony award should allow her to improve her employment skills so she may become self-supporting. We affirm the rehabilitative alimony award in the amount of $400 per month for eighteen months to Dawn.

II. **Maintenance of Home.** Edward contends he should not be held responsible for one-half of the maintenance and repair expenses associated with the family home. Dawn has the right to reside in the home, with the parties' children, until the youngest child reaches age eighteen or graduates from high school, whichever occurs later. The court ordered the home must then be sold and the net proceeds divided between the parties. Edward will benefit from the sale of the home and should bear his share of maintaining the investment. We affirm the district court on this issue.

III. **Pension.** The trial court awarded Dawn one-half the value of Edward's Central States Southeast and Southwest Area Pension fund at the time of dissolution. Edward claims since his pension fund was not vested at the time of the dissolution, the court erred in transferring one-half its value. Pension benefits, whether vested or unvested, are treated as marital property in Iowa and are properly subject to equitable distribution. In re Marriage

of Imhoff, 461 N.W.2d 343, 344 (Iowa App. 1990) (citations omitted). We affirm the decision of the trial court.

IV. Attorney Fees. Dawn requests attorney fees and costs on appeal. An award of attorney fees is not a matter of right, but rests within the court's discretion and the parties' financial positions. In re Marriage of Hunt, 476 N.W.2d 99, 103 (Iowa App. 1991). We are to consider the needs of the party making the request, the ability of the other party to pay, and whether the party making the request was obligated to defend the trial court's decision on appeal. Id. at 104. We determine each party shall pay his or her own attorney fees on appeal.

Costs of this appeal are assessed to Edward.

AFFIRMED.