

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF MARGARET J. JOHNSON
AND KEITH J. JOHNSON

FILED

OCT 20 1988

CLERK SUPREME COURT

Upon the Petition of)

MARGARET J. JOHNSON,)

Petitioner-Appellee,)

And Concerning)

KEITH J. JOHNSON,)

Respondent-Appellant.)

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8-302
87-1537

Appeal from the Iowa District Court for Polk County
(CD53-31788), Rodney J. Ryan, Judge.

Respondent husband appeals the economic provisions of a
divorce decree contending the court's decree concerning
alimony, property division, and child support are
inequitable. **AFFIRMED AS MODIFIED.**

Virgil Moore, Des Moines, for respondent-appellant.

Ted E. Breckenfelder of Hyland, Laden & Pearson, Des
Moines, for petitioner-appellee.

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

SCHLEGEL, P.J.

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Respondent husband appeals the economic provisions of a divorce decree. He contends the court's decree concerning alimony, property division, and child support are inequitable. Petitioner wife seeks attorney fees on appeal. We affirm as modified.

Margaret J. Johnson and Keith J. Johnson were married in 1961. At the time of marriage, Margaret was a widow with three minor children, who were subsequently adopted by Keith. One child was born of the marriage. All four of these children are now adults. The parties also adopted two children who were minors at the time of trial: Linda, born in 1970 and Joel, born in 1973. A petition for dissolution was filed on June 3, 1986. The dissolution decree filed on January 27, 1987, awarded custody of Linda and Joel to Margaret, required Keith to pay \$250 per month alimony and \$75 per week per child in child support, and awarded Margaret possession and use of the family home. The trial court also award Margaret 40% of Keith's pension rights.

Keith argues that the economic distributions by the court leaves him with only \$100 a month for his own expenses and are inequitable. He seeks a reduction in child support in the amount of \$115 per week for both children, and \$85 per week when only one child is entitled to support. He also seeks a reduction in the award of

alimony to \$50 per week, requests that Margaret be denied any part of his pension rights, and urges that the family home be sold and the proceeds divided equitably between the parties after the youngest child reaches 18.

I. **Property Division and Alimony.** Property division and alimony must be considered together in evaluating their individual sufficiency; they are neither made nor subject to evaluation in isolation from one another. In re Marriage of Griffin, 356 N.W.2d 606, 608 (Iowa App. 1984). The distribution of the parties' property should be that which is equitable under the circumstances after consideration of the criteria codified in Iowa Code section 598.21(1) (1987). In determining the appropriateness of alimony, Iowa Code section 598.21(3)(e)-(f) (1987) provides that the court must consider the earning capacity of each party, present standards of living, and ability to pay, balanced against relative needs of the other. See also Marriage of Estlund, 344 N.W.2d 276, 281 (Iowa App. 1983).

The parties were married for 24 years. Margaret, 54 at the time of trial, is a high school graduate without any particular job training or skills. Her last job outside the home was as a typist and she left this job in 1954. She was not employed when she and respondent met. During the marriage, her primary responsibility involved raising the couple's six children. At the time of trial she was

self-employed as a baby-sitter in her home and made approximately \$75 per week. The record shows that Margaret suffers from a thyroid condition, high blood pressure, and is undergoing counseling. Keith, 55 at the time of trial, has been employed by the post office for 29 years and receives an annual income of \$31,000. He testified at trial that he anticipates working for ten to twelve more years. He is also employed as a building supervisor for Community Education and holds a Sunday and daily paper route. The Community Education position is part-time and pays approximately \$5 per hour. The paper routes together pay approximately \$125 per month. The record shows that he is in good health.

From the foregoing, it is evident that the trial court's alimony award of \$250 per month is proper. The evidence shows that there is wide disparity between the wages earned by the parties. Margaret's current income is obviously insufficient to maintain the standard of living comparable to that enjoyed during the marriage, and there is little chance that her earning capacity will increase significantly in the future, given her age, health problems, and lack of training or education. See In re Marriage of Bornstein, 359 N.W.2d 500, 502 (Iowa App. 1984).

Keith alleges that the court's decree leaves him with only \$100 per month on which to live. Keith's statement of

II. Savings Account. Larry further claims a one-half interest in Cecilia's savings account in which she had accumulated \$13,821.37 at the time of trial, subject to a loan in the amount of \$6,872. The trial court found, and we agree, that both parties contributed to the savings account held in petitioner's name, although respondent's contribution was minimal. Based upon the record, we find that the division of this account was equitable. We affirm the trial court's ruling with respect to this property.

III. Personal Property. Larry brought into the marriage a 1970 Ford pickup, a 1963 Ford Econoline (that was subsequently used to satisfy a previous child support debt), a 1963 Chevrolet van, his own clothes, guns, fishing equipment, and tools. Cecilia brought into the marriage a 1969 Mercury, a Corvair, and a house full of furniture. The trial court awarded Larry the 1974 van, the Honda, Yamaha and Kawasaki motorcycles, a golf cart, miscellaneous tools and equipment, two cemetery lots, a go-cart, one small motorcycle, one moped, and one-half the assorted frozen meats. The trial court awarded Cecilia the 1982 Mercury, 1976 Mercury, and 1974 Chevrolet automobiles, and one-half of the frozen meats. The household goods and furnishings were also awarded to Cecilia, subject to either an equitable division between the two parties, or a \$1,000 payment from Cecilia to Larry. We fail to see how the trial court's decision is inequitable, given the record before us.

We find respondent's claims on appeal to be without merit. We similarly find against petitioner's claims on her cross-appeal. We affirm the trial court's decree in toto.

AFFIRMED.