FILED
DEC 30 1981
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA 312

IN RE THE MARRIAGE OF MARY L. KNOTT AND WILLIAM B. KNOTT

UPON THE PETITION OF
**MARY L. KNOTT,**

Petitioner-Appellant,

AND CONCERNING
**WILLIAM B. KNOTT**

Respondent-Appellee.

Filed December 30, 1981

1-333
3-65560

Appeal from Pottawattamie, District Court, E. F. Hanson, Judge.

Petitioner-wife appeals from the parties' dissolution decree, challenging the award of custody of three minor children to husband, challenging various economic provisions and requesting husband contribute toward her attorney fees on appeal. AFFIRMED IN PART AND REMANDED IN PART.

Scott H. Hughes of Perkins, Sacks & Hannan, Council Bluffs, for petitioner-appellant.

G. William Smits of Stuart, Tinley, Peters, Thorn Smits & Sens, Council Bluffs, for respondent-appellee.

Heard by Oxberger, C.J., and Donielson, Snell, Carter, and Johnson, JJ.

**PER CURIAM**

Petitioner-wife appeals from the parties' dissolution decree, challenging the award of custody of three minor children to husband, challenging various economic provisions and requesting husband contribute toward her attorney fees on appeal. We affirm in part, modify in part and remand in part.

Petitioner, Mary L. Knott, and respondent, William B. Knott, were married on November 13, 1959. The parties have lived in Council Bluffs since that time. Since October 25, 1979, the parties have been separated.

Five children were born to Mary and William: William, Jr., age nineteen at the date of the decree; Tracy, born June 13, 1963; Melody, born May 2, 1967; Charles, born July 28, 1968, and Rori, born June 27, 1972. Except for a brief period immediately after the separation, the three youngest children have remained under the care and custody of William in the family home. Tracy has lived with her mother in an apartment in Council Bluffs since December of 1979.

William is employed as a general foreman at Asarco in Omaha. His salary is $2211 per month, and he received a bonus of $1044 in 1980. William works from 6:30 a.m. to 3:00 p.m. five days per week.

Mary works thirty-nine hours per week at Bishop's Buffet in Council Bluffs. She has hourly wages of $3.77, which converts into a monthly income of approximately $637. Mary works from 9:00 a.m. to 4:30 p.m. each weekday and 9:00 a.m. to 2:00 p.m. on Saturday.

The trial court concluded custody of the three youngest children should remain with William. The court noted that while either party would be a fit parent to have custody of those children, it would be in the best interest of the children to stay with their father. Custody of Tracy was placed with Mary. William is to make child support payments to Mary in support of Tracy of $150 per month until Tracy attains age eighteen or graduates from high school, whichever is later.

The trial court also awarded William the use of the family home until the youngest child attains the age of eighteen or graduates from high school, whichever is later. William is to be responsible for all mortgage payments, taxes and insurance. When the youngest child attains age eighteen or graduates, the house is to be sold, with $19,500 of the proceeds (representing the outstanding balance on the mortgage) to be paid to William, and the balance of the proceeds is to be divided equally.

Mary was awarded alimony of $25 per month until such time as she remarries or either party dies. The trial court also awarded Mary $100 for attorney fees in addition to the $150 previously awarded pursuant to a temporary order.

Mary has appealed the trial court's order. She claims (a) she should be awarded custody of the three minor children; (b) the child support payment should not be discontinued when Tracy graduates from high school or attains the age of eighteen, (c) the alimony award was inequitable and should be increased, and (d) the award of attorney fees was inequitable under the circumstances and should be increased. Mary also requests additional attorney fees for services rendered by her attorney on appeal.

Our review is de novo. Iowa R. App. P. 4. We are not bound by the trial court's findings of fact, but we give them weight, especially with regard to the credibility of witnesses. Iowa R. App. P. 14(f)(7). In reviewing a child custody determination, we apply the criteria set out in In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974). Our primary concern is the best interest of the children. Iowa R. App. P. 14(f)(15). In reviewing the property provisions of a dissolution decree, we consider the factors articulated in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968), except fault. In re Marriage of Williams, 199 N.W.2d 339, 345 (Iowa 1972).

I. Custody

We agree with the trial court's conclusion that William, under the record presented, will "minister more effectively to the long-range best interests of the children." In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974). Accordingly, we affirm the trial court's award of custody of the three youngest children, Melody, Charles, and Rori, to William.

The evidence indicates William is a family-oriented father. Throughout the marriage William reliably provided for his family. William spent as much time with the children as his work schedule permitted. The record indicates William devoted substantial time to family activities.

William also provides a stable environment to raise the children. He has a steady, well-paying job. William appears to be supportive of the children and openly affectionate with them. William also offers firm and reasonable discipline in appropriate situations. We also note William has adjusted well to being a single parent. Our difficult task is to determine which party would most effectively minister to the long-term best interests of the children. While we think Mary could effectively minister to the children's long-term interests, we feel William will more effectively execute the obligation and responsibility of raising the children. We affirm the trial court's decision placing custody of Melody, Charles, and Rori with William.

II. Child Support

Mary argues the child support award should not be automatically discontinued when Tracy becomes eighteen or graduates from high school, whichever is later. Mary grounds her argument on section 598.1(2), which permits child support payments to continue until the child reaches age twenty-two if the child is involved in post high school education. We agree with Mary's assertion the trial court's order presupposes Tracy will not attend a post high school educational institution. The order could have the effect of dissuading Tracy from furthering her education. For that reason, we remand the case to the trial court to determine whether Tracy intends to enroll in a qualifying institution. If Tracy intends to further her education, the support payments shall be determined by the trial court in an appropriate amount until Tracy no longer qualifies under section 598.1(2), The Code 1979.

III. Alimony

Mary contends the trial court's award of $25 per month is inadequate under the circumstances. We disagree. The appropriate alimony award is one that is just and equitable under the circumstances. See § 598.21, The Code 1979; see Schantz v. Schantz, 163 N.W.2d 398, 405-06 (Iowa 1968). Twenty-five dollars per month is equitable given the parties' relative financial positions, William's responsibility for the three minor children and the contingency of his having to contribute to the expenses of Tracy's higher education. Accordingly, we affirm the trial court's alimony award.

IV. Attorney fees

Mary requests an increase in the trial court's award of attorney fees incurred at trial and seeks reimbursement for her attorney fees incurred as a result of this appeal. Our primary consideration in making that determination is the parties' resources. In re Marriage of Williams, 303 N.W.2d 160, 167 (Iowa 1981). Assessing the parties' resources in this case, we affirm the trial court's award of $250 for attorney fees for Mary's attorney incurred at trial. By this affirmance, we do not determine the value of the services rendered but are only expressing our view that this is an appropriate part of the property settlement. William shall also pay $650 toward the attorney fees Mary incurred on this appeal.

AFFIRMED IN PART AND REMANDED IN PART.