DEC 27 1979
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

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IN RE THE MARRIAGE OF DAVID J. NAVRATIL and SUSAN J. NAVRATIL

UPON THE PETITION OF	)	
DAVID J. NAVRATIL,	)	Filed December 27, 1979
Petitioner-Appellee,	)	
AND CONCERNING	)	334
SUSAN J. NAVRATIL,	)	2-63151
Respondent-Appellant.	)	

Appeal from Linn District Court - John L. Hyland, Judge.

Respondent-wife appeals from the economic provisions of a decree dissolving her marriage to petitioner-husband. AFFIRMED AS MODIFIED.

James W. Affeldt of Eells, Blackstock, Affeldt & Harms, Cedar Rapids, for respondent-appellant.

Guy Booth of Cedar Rapids, for petitioner-appellee.

Submitted to Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Respondent-wife, Susan Navratil, appeals from the economic provisions of a decree dissolving her marriage to petitioner-husband, David Navratil. We affirm the decree of dissolution as modified.

Susan and David were married March 7, 1970. The couple has two children, David, age 9, and Caroline, age 6. The trial court entered a dissolution decree that awarded custody of the couple's two minor children to Susan. David was ordered to pay child support of $80 per week, to be reduced to $50 per week when the oldest child becomes emancipated. The court ordered both parties to "contribute equitably" to the cost of the children's education beyond high school. Susan was ordered to carry health insurance on the children and pay all medical bills not covered by insurance up to $150 per year. The medical costs exceeding $150 were to be paid one-half by Susan and one-half by David. Susan was also ordered to pay all dental bills for the children up to $100 per year, with amounts in excess of $100 being paid one-third by Susan and two-thirds by David. No alimony was awarded. The residence of the parties was awarded to them in equal shares as tenants in common, with mortgage payments to be made one-half by each party.[1] From the remaining assets, Susan was awarded property valued at $4,680.88 and David was awarded property valued at $2,045.00. From the couple's liabilities, excluding the mortgage debt, Susan was charged with responsibility for debts totaling $889.29 and David was charged with responsibility for debts totaling $3,729.59.

On appeal Susan contends: (1) the provisions of the decree relating to child support are inequitable as they relate to David's ability to pay, and (2) the trial court should have provided her with an award of attorney fees. Susan also seeks an award of additional attorney fees on appeal. Our review in this proceeding is **de novo.** Iowa R. App. P. 4. In order to achieve a fair and equitable determination of the support payments for which David should be liable pursuant to section 598.21, The Code 1977, we apply the guidelines articulated in In re Marriage of Zoellner, 219 N.W.2d 517, 525 (Iowa 1974). Although Susan does not contest the trial court's division of the marital assets and failure to make an award of alimony, these factors together with the award of support money are closely related to the determination of the amounts of each to be

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[1] The record indicates the residence was valued at $40,000 and subject to a mortgage debt of $19,090.13.

awarded. In re Marriage of Peterson, 227 N.W.2d 139, 140 (Iowa 1975). Of course, no two cases are alike and, therefore, precedents are of little value. Zoellner, 219 N.W.2d at 525. While we give weight to the findings of the trial court, we will not abdicate our function as a trier **de novo** on appeal. In re Marriage of Novak, 220 N.W.2d 592, 597 (Iowa 1974).

I. Susan asserts the provisions of the trial court's decree awarding her $80 per week child support and requiring her to pay for the children's health insurance and certain amounts of their medical and dental expenses are inequitable. Susan's remarriage was imminent at the time of the hearing on post-trial motions in the trial court and she does not ask for alimony on this appeal.

At the time of trial Susan was 26 years old and David was 28. Both parties enjoyed good physical and mental health. David had been employed as a sheet metal worker since 1969, earning a monthly salary of approximately $2,184. Susan had recently become employed as an office clerk at a monthly salary of $545. The obligation of each parent to support their children should be apportioned to the fair ability of each to contribute but must not exceed the showing of the needs of the children. In re Marriage of Fleener, 247 N.W.2d 219, 221 (Iowa 1976). While the evidence of Susan's expenses in regard to the custody of the children is somewhat speculative, we find that the trial court's award of child support was not inadequate based on the showing which was made. We decline to change the weekly child support award, nor do we disturb those provisions of the decree relating to payment for medical and dental care.

II. Susan also contends the trial court's award of $150 attorney fees was inadequate. Attorney fees are not allowable as a matter of right; rather such an award is based upon the financial condition of the parties and their respective abilities to pay. In re Marriage of Willcoxson, 250 N.W.2d 425, 427 (Iowa 1977). After consideration of the entire financial picture of the parties, we conclude that an award of an additional $150 attorney fees for services performed in the trial court is warranted. We also conclude, without determining the amount Susan's attorney may charge, that David shall pay an additional $300 toward her fees for this appeal. See In re Marriage of Peterson, 227 N.W.2d 139, 143 (Iowa 1975). All provisions of the trial court's decree not herein modified are affirmed. Costs of this appeal are assessed equally between the parties, except for the award of attorney fees.

AFFIRMED AS MODIFIED.