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IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF SHERYL LYNN SCHAEFER and BERNARD CHARLES SCHAEFER

Upon the Petition of	)	
SHERYL LYNN SCHAEFER,	)	Filed November 10, 1977
	)	
Appellee and Cross-Appellant,	)	
	)	
And Concerning	)	
	)	<u>279</u>
BERNARD CHARLES SCHAEFER,	)	3-59467
	)	
Appellant.	)	

Appeal from Black Hawk District Court - Peter Van Metre, Judge.

Respondent appeals child support provision and petitioner appeals attorney fee and property division provisions of a dissolution decree. Affirmed on respondent's appeal. Appeal dismissed on petitioner's appeal.

James L. Robertson, of Robertson, Robertson and Buckner, of LaPorte City, for appellee.

Edward J. Gallagher III, of Gallagher, Martin, Keith and Langlas, of Waterloo, for appellant.

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

PER CURIAM

Respondent Bernard Schaefer appeals the child support provisions of the April 16, 1976, decree dissolving his marriage to petitioner Sheryl Schaefer. Sheryl cross-appeals from the property division provided in said decree. She also appeals the trial court's award of attorney fees and seeks an order holding Bernard responsible for her attorney fees on this appeal. Our review is de novo. With respect to the economic determinations which we make in this case we apply the criteria set forth in *Schantz v. Schantz*, 163 N.W.2d 398, 405 (Iowa 1968), excluding considerations of fault. Precedent is of little value in making such determinations and each case must be determined on its peculiar circumstances.

I. Child support.

Custody of the only minor child of the parties, Brion, who was two years of age at the time of the decree was awarded to Sheryl. Bernard was ordered to pay child support of \$120 per month for six months, then \$140 per month for six months, then \$160 per month for one year, and thereafter \$180 per month until the child attains his majority. In a stipulation filed in the trial court it was agreed that Bernard's gross income, as shown on his latest federal and state income tax returns, was \$16,320.77, representing regular and overtime wages earned from his employment at the John Deere Waterloo Tractor Works.

In light of Bernard's earning ability and Sheryl's needs to support Brion, as shown by her financial statement, we do not disturb the child support award. To the extent that Bernard asserts that the incremental increases in child support are not justified by any evidence, we believe they are a justifiable attempt by the trial court to assist Bernard in retiring his debts during the first 24 months.

II. Property division and attorney fees.

The net value of property awarded Bernard under the decree is \$11,065 and the net value of property awarded Sheryl is \$6,000. By cross-appeal she asserts that this is inequitable. The record clearly reflects that her notice of appeal was not filed within the time provided in rule 5(a), Rules of Appellate Procedure (formerly R.C.P. 335(a)) and we therefore must dismiss her appeal for want of jurisdiction. A similar result must follow as to the appeal of her attorney fee award.

The decree is affirmed on Bernard's appeal and Sheryl's appeal is dismissed. Costs of appeal are taxed one-half to each party. Without attempting to fix Sheryl's obligation for fees owed her attorney on this appeal we order that Bernard pay the sum of \$600 to apply on said fees.