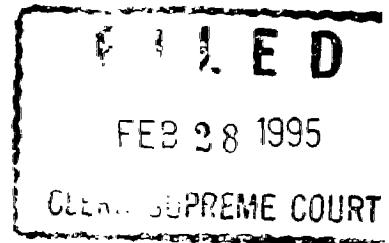


IN THE COURT OF APPEALS OF IOWA

No. 4-613 / 94-1167



IN RE THE MARRIAGE OF LINDA BLINKMANN AND RICHARD BLINKMANN

Upon the Petition of
LINDA BLINKMANN,

Appellant,

And Concerning
RICHARD BLINKMANN,

Appellee.

Appeal from the Iowa District Court for Emmet County,
John P. Duffy, Judge.

Linda Blinkmann appeals from the child custody and
economic provisions of the parties' dissolution decree.

AFFIRMED.

Priscilla E. Forsyth, Milford, for appellant.

William D. Ridout of Sanderson, Ridout & Martens,
Estherville, for appellee.

Considered by Donielson, C.J., and Habhab and Cady,
JJ. Sackett, J., takes no part.

DONIELSON, C.J.

Linda and Richard Blinkmann were married on June 9, 1984. They have four children: Charissa, born March 28, 1986; Richele, born July 13, 1987; Christopher, born September 18, 1989; and Justin, born January 18, 1991.

Linda was forty-four at the time of trial. She is currently employed as a chaplain at Holy Family Hospital in Estherville. Her has annual income of \$19,800 and her net monthly income is \$1,240. Linda had obtained an associate degree prior to the marriage. During the marriage she obtained a B.A. degree at Buena Vista. She took additional classes and attended residencies in order to be certified as a pastoral counselor.

Richard was forty-one at the time of trial. He is employed as the field foreman for the highway department in Emmet County. His annual income is \$22,560 and he has net monthly income of \$1,535. He also runs a small field tiling business. Richard attended community college for twenty-one months after graduating high school in 1971.

Following trial, the district court entered its findings, conclusions and decree. The court found both parents would be suitable to care for the children. The court further found, however, that Richard appeared to be more devoted to, and interested in, the children. The court concluded the parties should be given joint legal custody, but Richard should be awarded primary physical care of the parties' children.

The court ordered Linda to pay \$496 per month in child support pursuant to the child support guidelines. Linda was granted liberal visitation. The court awarded Richard the marital home and ordered him to pay the mortgage, taxes, insurance and upkeep. The parties were ordered to sell the house when the youngest child reaches the age of eighteen, and divide the proceeds equally.

The court awarded Linda her vehicle, her savings and checking accounts and one-half of the parties' household goods. Linda was also awarded certain personal property she owned prior to the marriage. Richard was awarded his IPERS pension fund, his vehicle, his life insurance policies, his bank accounts, and one-half of the household goods. He was also awarded the equipment for the tiling business. Richard was ordered to pay most of the parties' debts except for Linda's student loans. The parties were ordered to pay their own attorney fees. Linda appealed.

I. Our review of this equitable action is de novo. Iowa R. App. P. 4. We are not bound by the district court's findings of fact, but we do give them deference because the district court had an opportunity to view, firsthand, the demeanor of the witnesses when testifying. In re Marriage of Brown, 487 N.W.2d 331, 332 (Iowa 1992).

II. Linda contends she should have been awarded physical care of the parties' four children. She states that she is better able to support Richard's relationship with the children, while Richard tries to undermine her

relationship with the children. Also, she believes the district court improperly punished her for pursuing an education.

In child custody cases, our focus is on the long-range best interests of the child. In re Marriage of Zabecki, 389 N.W.2d 396, 398 (Iowa 1986). The critical issue in determining the best interests of the child is which parent will do better in raising the child. In re Marriage of Rodgers, 470 N.W.2d 43, 44 (Iowa App. 1991). The factors the court considers in awarding custody are enumerated in Iowa Code section 598.41(3). In re Marriage of McElroy, 475 N.W.2d 221, 222 (Iowa App. 1991).

In our de novo review, we determine Richard should be granted physical care of the parties' children. We agree with the district court that while both parties are good parents, Richard has shown more interest in the welfare of the children. Richard has curtailed his evening activities in order to spend more time with the children when he is not working.

On the other hand, Linda's conduct has shown she has been more interested in her outside activities than in the children's activities. Consequently, she has not spent as much of her free time with the children. The evidence showed that even when Linda was not in class she would study outside the home. We affirm the decision of the district court granting primary physical care of the children to Richard.

III. Linda claims the property distribution was inequitable to her because the district court did not award her a portion of Richard's retirement plan. She states the parties were married for ten years, and this should be long enough to entitle her to a portion of Richard's pension. In the alternative, she states that the value of Richard's pension should be attributed to him, and asks to be awarded additional property to more closely equalize the property distribution.

The partners in a marriage are entitled to a just and equitable share of the property accumulated through their joint efforts. In re Marriage of Russell, 473 N.W.2d 244, 246 (Iowa App. 1991). The Iowa courts do not require an equal division or percentage distribution. Id. The determining factor is what is fair and equitable in each particular circumstance. Id.

Pension benefits are treated as marital property and are subject to equitable distribution. In re Marriage of Huffman, 453 N.W.2d 246, 248 (Iowa App. 1990). In reviewing a division of marital assets, all economic aspects of a decree, including the parties' pension plans, must be viewed as an integrated whole. In re Marriage of Imhoff, 461 N.W.2d 343, 344 (Iowa App. 1990).

We find the property distribution in this case is equitable. We have included Richard's pension plan in the assets awarded to him, and recognize he was awarded a greater amount of the parties' assets. However, he was

also required to pay most of the parties' debt. In our calculation, after subtracting the debt each party is required to pay, each party received an equitable amount of the marital net worth. We affirm the property distribution.

IV. Linda seeks attorney fees for this 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 determine each party should pay his or her own attorney fees for this appeal.

We affirm the district court on each issue raised in this appeal. Costs of this appeal are assessed to Linda Blinkmann.

AFFIRMED.