

IN THE COURT OF APPEALS OF IOWA

No. 6-599 / 95-1593

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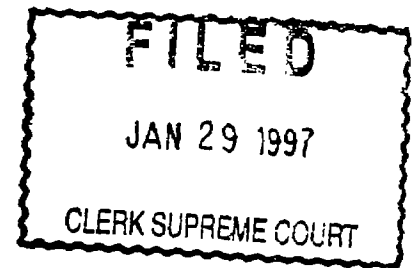
**IN RE THE MARRIAGE OF ROBERT FRANCIS JEDLICKA
AND MARY KATHRYN MORAVEK**

**Upon the Petition of
ROBERT FRANCIS JEDLICKA,**

Petitioner-Appellant,

**And Concerning
MARY KATHRYN MORAVEK,**

Respondent-Appellee.



Appeal from the Iowa District Court for Cedar County, Patrick Madden, Judge.

On appeal from entry of dissolution decree, appellant argues alimony should not have been awarded to his former wife and the amount awarded was excessive.

AFFIRMED.

L. Jeffrey Zearley, Tipton, for appellant.

Linda Hansen Robbins, Irvine & Robbins, Cedar Rapids for appellee.

Considered by Habhab, C.J., Huitink and Vogel, JJ. Sackett, J., takes no part.

PER CURIAM

This is an appeal by a husband challenging the alimony provision of the parties' dissolution decree. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court Rule 9.

Robert Jedlicka and Mary Moravek (Kathy) were married in 1980. They have one child, Richard, who was born in October 1983. Richard has been diagnosed with leukemia, but the disease is currently in remission. Robert is employed by CDI Corporation as a mechanic designer, where he has net monthly income of \$2,311. Kathy suffers from depression and anxiety disorders. She also has neurological problems which have been diagnosed as chronic fatigue syndrome. She receives Social Security disability benefits of \$472 per month.

The district court issued a dissolution decree for the parties on August 15, 1995. The court granted the parties joint legal custody of Richard, with Robert having primary physical care. Kathy was ordered to pay child support of \$290 per month. Kathy was awarded alimony of \$800 per month for a period of five years. Robert now appeals.

Robert claims Kathy is not entitled to alimony. Alimony is not an absolute right; an award depends upon the circumstances of each particular case. *In re Marriage of Whelchel*, 476 N.W.2d 104, 110 (Iowa App. 1991). Kathy's psychiatrist, Dr. Dwight Schroeder, testified Kathy was competent to be a custodial parent despite her mental disabilities. Robert argues that if Kathy is sufficiently mentally competent

to be a custodial parent, she must be competent to work. We find Kathy is not capable of employment at the present time and is entitled to an award of alimony. Dr. Schroeder testified Kathy as disabled and unable to hold down full-time employment.

In the alternative, Robert claims the amount of alimony awarded in this case is excessive. He asks to have the amount and duration of the alimony reduced. We note that although Robert must pay \$800 per month in alimony, Kathy's child support obligation reflects the amount of alimony Robert pays and Kathy receives. Thus, of the \$800 per month Robert pays to Kathy, Kathy pays Robert back \$290 per month in child support. We recognize that any reduction in the amount of alimony would cause a corresponding reduction in child support. We conclude the amount and duration of the alimony awarded is appropriate.

We affirm the decision of the district court. Costs of this appeal are assessed to Robert.

AFFIRMED.