FILED
AUG 29 1985
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF JUDITH K. CARVER AND DUANE L. CARVER

Upon the Petition of	)	
JUDITH K CARVER,	)	Filed August 29, 1985
Petitioner-Appellee,	)	
And Concerning	)	5-344 84-1775
DUANE L. CARVER,	)	
Respondent-Appellant.	)	

Appeal from the Iowa District Court for Buchanan County - Thomas H. Nelson, Judge.

Respondent husband appeals from the decree dissolving the parties' marriage **AFFIRMED AS MODIFIED.**

James L. Chipokas and James H. Flitz, Cedar Rapids, Iowa, for respondent-appellant

Terry L. Hinman, Independence, Iowa, for petitioner-appellee.

Considered by Oxberger, C.J., Snell, and Hayden, JJ.

HAYDEN, J.

Respondent husband appeals from the decree dissolving the parties' marriage. He asserts that the child support obligation is excessive. Petitioner wife requests attorney fees on appeal. We affirm as modified.

Judith and Duane Carver were married in 1968. They have two children: Jami, born in 1977, and Jodi, born in 1979. Duane is employed as a truck driver; the trial court determined that he earns a net income of $1,071 per month, although this figure is disputed by Judith. Judith is presently unemployed. In the past she has worked as a nurse's aide, a teacher's aide, and a truck driver. She estimated monthly expenses for herself and the two children at $1,137.73.

The trial court gave the parties joint custody of their two children, with Judith having physical care. Duane was directed to pay $150 per week child support which was to continue until the youngest child becomes 18 years old. He was also directed to maintain medical and hospital insurance on both children, which presently costs $117.69 per month. No alimony was awarded. Duane has appealed.

Our review is de novo. Iowa R. App. P. 4. While we give deference to the findings of the trial court, we are not bound by them. Iowa R. App. P. 14(f)(7).

Duane's sole claim on appeal is that the award of child support is excessive. In considering this claim, we examine the facts of the case in light of the factors listed in Iowa Code section 598.21(4). Both parties to the marriage have an obligation to support their children. In re Marriage of Fleener, 247 N.W.2d 219, 221 (Iowa 1976). The obligation to support should be apportioned according to the ability of each person to contribute. In re Marriage of Heinemann, 309 N.W.2d 151, 153 (Iowa Ct. App. 1981).

Upon reviewing the record, we conclude that the child support obligation is excessive. We are inclined to agree with Judith that Duane's net monthly

income is more than the amount determined by the trial court. In examining his payroll records, it is apparent that he has an average net income of approximately $1,330 per month, representing his gross income less taxes and health insurance. Even so, the child support obligation imposed by the trial court would require him to pay $650 per month, or almost half of his income. We believe this amount is inequitable under the circumstances.

Accordingly, we modify the child support portion of the decree. Duane shall pay child support in the amount of $50 per child per week until each child respectively attains majority, marries, or becomes self supporting; in any event, the obligation to provide support shall only continue until each child respectively completes her high school education. He shall maintain the medical and hospital insurance for the children as ordered in the decree.

Judith has requested attorney fees on appeal. In evaluating this request, we consider the needs of the petitioner, Duane's ability to pay, and whether Judith was required to defend the trial court's decision on appeal. See In re Marriage of Bornstein, 359 N.W.2d 500, 504 (Iowa Ct. App. 1984). Upon consideration of these factors, we award Judith $500 to apply on her appellate attorney fees.

AFFIRMED AS MODIFIED.