FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF VELMALINE ANN TAYLOR AND MARTIN EUGENE TAYLOR

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Upon the Petition of)

VELMALINE ANN TAYLOR,)

Petitioner-Appellee,) Filed September 24, 1985

And Concerning)

MARTIN EUGENE TAYLOR,) 5-348 / 84-1851

Respondent-Appellant.)

Appeal from the Iowa District Court for Cerro Gordo County - Paul W. Riffel, Judge.

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

Rolf Aronsen, Mason City, for respondent-appellant.

Richard N. Tompkins, Jr., Mason City, for petitioner-appellee.

Considered by Donielson, P.J., and Schlegel and Hayden, JJ.

DONIELSON, P.J.

Respondent husband appeals from the decree dissolving the parties' marriage. He asserts that the property division and alimony and child support awards are inequitable. Petitioner wife requests attorney fees on appeal.

Petitioner Velmaline Ann Taylor and respondent Martin Eugene Taylor were married in 1966. They have three children: Layton, born in 1969; Velena, born in 1973; and Vanette, born in 1976. Layton is emotionally disturbed and has a learning disability. Velmaline is 45 years old; she was employed as an elementary school teacher until 1969, but has not worked outside the home since. Martin is 46 years old; he is a high school physics and chemistry teacher and also sells Amway products.

The trial court gave Velmaline custody of the parties' children and directed Martin to pay child support of $225 per month per child. Martin was also directed to maintain medical and dental insurance for the children. The parties were each directed to pay half of the children's medical and dental expenses not covered by the insurance. The trial court directed Martin to pay Velmaline alimony of $300 per month until Velmaline remarried, cohabited with an adult male or died.

The trial court ordered the parties' house sold and the proceeds equally divided. The trial court awarded Velmaline two cars, a trailer, all the parties' household goods except certain items awarded to Martin, her bank accounts, her life insurance and the parties' income tax refunds. The trial court awarded Martin a car, specified household goods, his bank accounts, his life insurance, and his retirement funds and annuities. Martin was directed to pay the parties' debts and $2,000 toward Velmaline's attorney fees.

Martin's appeal challenges the property division and the alimony and child support awards. He claims in particular (1) that the trial court should not have

awarded Velmaline permanent alimony; (2) that the trial court should not have directed him to pay half of the children's medical and dental expenses which were not covered by his insurance; and (3) that the trial court should have discounted his IPERS (Iowa Public Employee's Retirement System) fund and IDS annuity to their present value for purposes of the property division.

I. Alimony

Iowa Code section 598.21(3) (1985) provides that alimony may be awarded, either for a limited or indefinite period, and lists factors which shall be considered. The trial court awarded Velmaline permanent alimony. Iowa has recognized that "the spouse with the lesser earning capacity is entitled to be supported for a reasonable time in a manner as closely resembling the standard existing during the marriage as possible to the extent it is possible without destroying the right of the party providing the income to enjoy at least a comparable standard of living as well." In re Marriage of Haynie, 334 N.W.2d 347, 351 (Iowa Ct. App. 1983).

Applying these principles to the facts, we find the trial court's alimony award was in error. Martin's net monthly income is $1,600 and the trial court's order leaves him with only $600 in monthly disposable income. Martin has offered to pay alimony until all the children have graduated from high school, enabling Velmaline to stay home and care for the children. Velmaline, a teacher by profession, however, takes the position that she will have been out of the work force for twenty-five years when their last child is expected to graduate from high school and is unlikely to be able to obtain a suitable teaching position at that time. Thus, she claims, permanent alimony is needed.

Velmaline is in good physical and mental condition. She is well educated. The court noted she is capable of gainful employment, but that her absence from the job market for an extended period of time could adversely affect her

prospects. We do not see any reason why Velmaline's employment opportunities need be limited to the elementary education field and why she cannot consider some type of part-time employment at the present time. It would be an ideal situation if Velmaline did not have to work, yet, given the realities of Martin's financial status, we think it is unfair to award Velmaline permanent alimony. Therefore, we order that alimony payments shall cease upon Velmaline's remarriage, cohabitation with an unrelated member of the opposite sex, death, or the graduation of the parties' last child from high school, or Martin's death, whichever occurs first.

II. Child Support

Martin appeals a portion of the trial court's order requiring that he pay one-half of the children's medical and dental expenses which are not covered by Martin's insurance policy.

Martin pays for the children's insurance out of his gross earnings. In addition, Martin's net monthly income is $1,601; $975 monthly must be paid in child support and alimony, which leaves Martin with $600 monthly for his own living expenses. We believe $600 a month for Martin is a parsimonious amount and feel justified in relieving him of his obligation to pay for any non-insurance covered medical and dental expenses. We modify that portion of the trial court's order requiring Martin to pay such expenses.

III. Property Division

Martin asserts the trial court erred in the valuation and inclusion of his IPERS pension fund and an IDS annuity with discounted present values of $15,000 and $7,000, respectively. He assumes that because permanent alimony and property division are related, awarding permanent alimony means that such assets were counted twice, once in making each award.

A spouse's pension fund is a marital asset and properly includable within the property division. In re Marriage of Bevers, 326 N.W.2d 896, 900 (Iowa 1982); In re Marriage of Byall, 353 N.W.2d 103, 106 (Iowa Ct. App. 1984). Iowa courts commonly discount such assets to present value and we find no merit in Martin's claim that such assets were counted twice by the trial court. We are unwilling to find the trial court used the discounted assets in the property division and then used the same assets in awarding permanent alimony.

IV. Attorney Fees

Velmaline requests attorney fees on appeal. Because she is as able to pay such fees as Martin, we reject her request. See In re Marriage of Lattig, 318 N.W.2d 811, 817 (Iowa Ct. App. 1982).

AFFIRMED AS MODIFIED[1].

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[1]We direct appellee's counsel to Iowa Rule of Appellate Procedure 16(a), which provides that the cover of an appellee's brief shall be red; appellee submitted a brief with a blue cover and should follow Rule 16(a) in all future submissions to this court.