FILED
SEP 24 1991
CLERK SUPREME COURT

**IN THE COURT OF APPEALS OF IOWA**

No. 0-718 / 90-607

**IN RE THE MARRIAGE OF LYNN M. SNELL AND FRANK G. SNELL**

Upon the Petition of
**LYNN M. SNELL,**

417

Appellant,

And Concerning
**FRANK G. SNELL,**

Appellee.

---

Appeal from the Iowa District Court for Winneshiek County, Robert J. Curnan, Judge.

The wife appeals a dissolution decree, challenging the decree's economic provisions and the husband's visitation schedule. **AFFIRMED AS MODIFIED.**

Thomas E. Gustafson, Denison, for appellant.

Marion L. Beatty and Linny C. Emrich of Miller, Pearson, Gloe, Burns, Beatty & Cowie, P.C., Decorah, for appellee.

Considered by Schlegel, P.J., and Sackett and Habhab, JJ.

**SCHLEGEL, P.J.**

Lynn and Frank Snell were married in 1981. They have three boys who were aged seven, five, and four at the time of trial. The children were placed in joint legal custody and in Lynn's primary physical care. These custody provisions are not challenged in this appeal.

Frank has farmed throughout the marriage. He owns eighty acres of land north of Decorah, Iowa, which is heavily burdened by debt, and he also works with his parents on a separate farm owned by them. He characterizes his farming enterprise as a struggling and financially marginal operation. The district court found that his net income, while variable, averages around $700 per month.

Lynn is a registered nurse at the Crawford County Hospital in Denison. She has a net income in excess of $1,000 per month.

The district court applied the child support guidelines and directed Frank to pay Lynn child support of $160 per month while all three children are eligible for support, $136 per month when two children are eligible, and $92 per month when only one child remains eligible. Furthermore, Frank's child support is $92 per month during the months of June, July, and August.

The decree granted Frank visitation during the three months of summer. The decree provided that Frank has weekend visitation on approximately every third weekend during the school year and that Lynn has weekend visitation

on approximately every third weekend during the summer. In making these arrangements the district court noted that more frequent visitation would be inappropriate because the parties now live a considerable distance from each other. A one-way trip by automobile takes five and one-half hours.

The decree awarded Frank the eighty acres of farmland and all the livestock, farm machinery, and other farm-related personal property. Frank was ordered to assume all of the substantial farm-related debt. Lynn was awarded personal property and a car. Each party was awarded his or her own bank accounts. Lynn was directed to assume certain non-farm debts, including a $3,600 debt to her parents.

Lynn has appealed from the dissolution decree.

I. In this equity action our review is de novo. Iowa R. App. P. 4. We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses, but are not bound by them. Iowa R. App. P. 14(f)(7).

II. Lynn contends the amount of child support should be increased. She asserts that the amount determined by the child support guidelines is unjust and inappropriate in this case. She also asserts that the district court did not correctly calculate Frank's net income and that his net income is at least $1,300 per month.

There is a rebuttable presumption that the amount of child support which would result from the application of the guidelines prescribed by the supreme court is the

correct amount of child support to be awarded. In re Marriage of Bergfeld, 465 N.W.2d 865, 869 (Iowa 1991). We do not believe Lynn has set forth sufficient evidence to show application of the guidelines would be unjust in this case.

The district court found that Frank's income fluctuated, but averaged between $700 to $800 per month. Considering personal taxes and social security taxes it would be about $700 per month. We find the record supports the district court's finding that Frank's actual net income is about $700 per month. The district court properly applied the child support guidelines using the schedule for net income of $701 per month. We affirm the district court's award of child support.

III. Lynn contends Frank should be responsible for the cost of medical insurance for the children. Lynn states she could obtain health insurance for the children through her place of employment for $130 per month. She asks that Frank share in this expense.

Medical insurance not considered in computing net monthly income may be considered by the court as a reason for varying from the child support guidelines. Because the trial court did not specifically state that medical expenses were part of the child support amounts, we increase Frank's obligation by $30. Frank's child support obligation, as set out above, is increased by $30 for its duration. This increase is specifically for medical insurance.

IV. Lynn asks that the visitation schedule set forth by the district court be changed to give her more time with the children during the summer. She seeks a block of time so that she might take a vacation with the children. As noted above, Frank was granted visitation with the children during the three summer months. Lynn was granted visitation on every third weekend during the time Frank has the children during the summer.

Iowa Code section 598.41(1) provides a court should award liberal visitation rights "which will assure the child the opportunity for the maximum continuing physical and emotional contact with both parents . . ." The best interests of a child includes the opportunity for a continuous relationship with both parents. In re Marriage of Miller, 390 N.W.2d 596, 599 (Iowa 1986).

We believe Lynn should have an extended visitation period with the children during the summer. Otherwise she will have no time to be with the children for an extended period when they are out of school. We modify the dissolution decree to give Lynn a two-week visitation period during the three months Frank has the care of the children during the summer. Lynn should give Frank notice of the time she wishes to have this two-week visitation by no later than April 15 of each year. In the absence of such notice, the visitation should come at a time agreed to by the parties. Frank should not deny the visitation because the notice was not given. The two-week visitation

should be set at a time when the children may benefit the most from the time spent with Lynn in a vacation setting.

V. Lynn also challenges the property settlement set forth by the district court. She states the court should have divided a $2,000 IRA held by Frank. She also states she should not be responsible for a debt of $2,500 to her parents because the money was used for improvements to the parties' house, which Frank received in the dissolution. In addition, she asks for an equitable share of the farm real estate, crops, and farm equipment.

Under Iowa Code section 598.21(1), the court should divide all property, except inherited property or gifts received by one party, equitably between the parties. In re Marriage of Byall, 353 N.W.2d 103, 105 (Iowa App. 1984). The ultimate question is whether the property division is equitable. Id. We have rejected any rules based on a percentage of the assets and recognize that we must determine what is equitable under the specific facts of each case. Id.

We believe the division of property in this case was equitable, and we affirm the property division made by the district court.

VI. In summary, we affirm on all issues in this case, except we modify the child support obligation in light of medical insurance expense and the visitation provisions as set forth above. The costs of this appeal are taxed one-half to Lynn and one-half to Frank.

**AFFIRMED AS MODIFIED.**