

IN RE THE MARRIAGE OF KENTON C. SMITH AND ELODIE J. SMITH

Upon the Petition of	)	
KENTON C. SMITH,	)	
Petitioner-Appellee,	)	Filed March 24, 1981
And Concerning	)	
ELODIE J. SMITH,	)	1-028
Respondent-Appellant.	)	2-65013

Appeal from Jefferson District Court - Phillip R. Collett, Judge.

Respondent-wife appeals from the economic provisions of the parties' dissolution decree alleging inadequacy of the amount and duration of the alimony award. She also claims that petitioner-husband should be held responsible for the children's outstanding medical bills and any similar future bills. AFFIRMED WITH MODIFICATION.

J. W. McGrath of McGrath & McGrath, Keosauqua, Iowa, for respondent-appellant.

Patrick J. Life of Oskaloosa, Iowa, for petitioner-appellee.

Submitted to Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Respondent-wife, Elodie J. Smith, appeals from the economic provisions of the parties' dissolution decree. She alleges inadequacy of the amount and duration of the alimony award and claims that petitioner-husband, Kenton C. Smith, should be held responsible for the children's outstanding medical bills and any similar future bills. We affirm with modification.

The parties were married on June 8, 1968. Neither party brought significant assets to the marriage. Petitioner had enlisted in the United States Air Force the previous year; respondent was employed at the Iowa State Bank in Fairfield. Upon his discharge in 1971, petitioner enrolled in the Parsons College ROTC program. During this time, while he was completing his college education and ROTC training, he worked forty hours per week as a bag boy in a grocery store. Petitioner's military commitments, both before and after graduation, have required him at various times to move both within the United States and overseas. Respondent, and later the children as well, accompanied him when they were permitted to do so.

At the time of trial petitioner, age 32, had achieved the rank of Captain with the Air Force and netted approximately \$1,500 per month. Respondent, age 33, had worked throughout most of the marriage and earned net income of approximately \$485 per month as a bank teller.

After the decree was filed on May 14, 1979, petitioner was ordered to pay temporary child support of \$200 per month, alimony of \$100 per month and \$150 for respondent's attorney fees. Under the final decree, trial court awarded respondent custody of the parties' two children, Julie, born June 23, 1971, and Derek, born May 8, 1976, with reasonable visitation rights to petitioner, including a thirty-day period during the summer. Petitioner was ordered to pay child support in the amount of \$175 per month per child, to maintain hospitalization and medical insurance for the children, and to pay \$125 per month in alimony until March, 1983, or until respondent's earlier death or remarriage. He also was ordered to pay \$400 in additional fees for respondent's attorney, as well as court costs. Other provisions of the decree relating to division of property are not at issue on this appeal.

I. Scope of Review. Dissolution proceedings are in equity. Our review therefore is *de novo*. Iowa R. App. P. 4.

II. Amount and Duration of Alimony. Respondent alleges that the alimony award of \$125 per month is inadequate and that the duration (until March, 1983) is too

short. An equitable alimony award is determined by consideration of the relevant factors listed in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968), modified to exclude fault in In re Marriage of Williams, 189 N.W.2d 339, 345 (Iowa 1972).

After applying those factors to this case, we are not inclined to disturb the amount of alimony awarded. Respondent claims monthly expenses of nearly \$750. Her current net monthly income is \$485, in addition to the \$475 per month combined alimony and child support she is to receive under the decree. Petitioner's net monthly income is \$1,440; he has monthly expenses of \$1,280, not including his support and alimony obligations. While petitioner has a higher income, he also has greater financial responsibilities. We are satisfied that the amount of alimony awarded by trial court will enable respondent to meet her expenses.

Respondent claims that a higher award is mandated under In re Marriage of Horstmann, 263 N.W.2d 885 (Iowa 1978), because her employment supplemented the family income while petitioner was finishing his college education and ROTC training, thus enabling him to attain a higher future earning potential. In Horstmann, the husband was a full-time law student, was unable to maintain any kind of employment, and had to rely entirely on his wife, his and her parents, and other loans. We do not agree that Horstmann requires a higher alimony award here. While both petitioner and respondent made significant financial contributions towards his education and future income potential, petitioner's income potential through his college degree and ROTC experience resulted just as much, if not more, from the fact that he worked forty hours per week.

Respondent also argues that trial court should not have ordered that alimony cease in March, 1983. We disagree. While trial court did not explain its reason for limiting duration of the award, we see no reason to modify that provision after balancing respondent's current needs against her available resources. We thus affirm the alimony provisions in all respects.

III. The Children's Medical Expenses. Finally, respondent contends that petitioner should be specifically required to pay the children's current, unpaid, and future medical and dental expenses which are not covered by insurance. We agree. Petitioner already is required by the decree to carry hospitalization and medical insurance on the children as long as he is obligated to support them. This insurance will cover the bulk of the children's present and future medical expenses. We conclude, however, that petitioner is in a better financial position than respondent to assume responsibility for

the unreimbursed expenses. We therefore modify the decree to make petitioner responsible for paying the children's medical, hospitalization and dental expenses, which are not reimbursed by insurance, as long as he is obligated to support the children under the decree.

Except for this single modification, we affirm trial court's decree.

AFFIRMED WITH MODIFICATION.

All judges concur except Oxberger, C.J., who dissents.

OXBERGER, C.J. (dissenting)

I would extend the alimony period.