

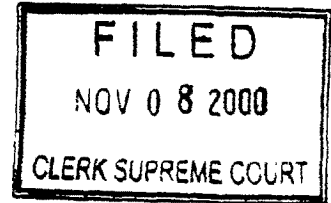
IN THE COURT OF APPEALS OF IOWA

No. 0-580 / 99-789
Filed November 8, 2000

**IN RE THE MARRIAGE OF PAMELA J. LEWIS
AND REGINALD L. LEWIS**

**Upon the Petition of
PAMELA J. LEWIS,
Petitioner-Appellee,**

**And Concerning
REGINALD L. LEWIS,
Respondent-Appellant.**



Appeal from the Iowa District Court for Polk County, Robert D. Wilson,
Judge.

Reginald Lewis appeals from the financial provisions of the dissolution
decree. **AFFIRMED.**

Ronald R. Rieper, Des Moines, for appellant.

Pamela J. Lewis, Des Moines, pro se.

Considered by Streit, P.J., and Vogel and Miller, JJ.

STREIT, P.J.

Reginald Lewis appeals from the financial provisions of the decree dissolving his marriage to Pamela Lewis. We affirm.

I. Background Facts & Proceedings.

Reginald and Pamela's nine-year marriage was dissolved in 1999. They have two daughters, Amanda (February 13, 1992) and Regina (December 21, 1996). Reginald claims the decree's child support, alimony, and property division provisions are inequitable.

II. Standard of Review.

In an equity action our review is de novo. *In re Marriage of Brauer*, 511 N.W.2d 645, 646 (Iowa App. 1993). We have a duty to examine the entire record and adjudicate anew the issues properly presented. *Id.*

III. The Merits.

Reginald claims the dissolution decree saddles him with an inequitable child support obligation of \$880.51 per month. He argues his obligation should not be based on an annual income of \$40,000 because he must work an excessive number of overtime hours to earn that amount. Overtime wages generally should be used to calculate a parent's net monthly income for purposes of the child support guidelines. *In re Marriage of Brown*, 487 N.W.2d 331, 333 (Iowa 1992). Reginald is employed at the Bridgestone/Firestone plant in Des Moines where he works thirty-six hours one week and forty-eight hours the next. According to Reginald, even with eight hours of mandatory overtime every other week he only earns about \$36,000 per year. The parties' tax returns, however,

show Reginald earned over \$40,000 in 1998. Reginald admitted at trial the 1998 figure accurately reflects his annual income. In fact, from 1994 to 1998 Reginald earned an average of nearly \$39,000 per year—and two of those years were strike years at Bridgestone/Firestone.¹ Reginald has not presented any credible evidence showing his child support obligation is so burdensome he must work overtime to satisfy that particular obligation. See *id.* at 333-34. Nor has he shown his annual overtime wages are speculative or uncertain. See *id.* The district court correctly based its child support order on Reginald's annual income of \$40,000.

Reginald also argues Pamela should be attributed a greater annual income because her decision to be a stay-at-home mother has reduced her actual take-home pay. Specifically, he asserts Pamela should have been attributed \$10,712 of annual income rather than \$6240. Pamela may have the ability to work a greater number of hours outside the home, but she would incur child care expenses that would likely consume a significant portion of her income. See *In re Marriage of Bonnette*, 492 N.W.2d 717, 721 (Iowa App. 1992). Thus, she would only be able to contribute minimally to the support of her daughters.² See *id.* The district court correctly based its child support order on Pamela's estimated annual income of \$6240.

¹ Reginald earned \$37,000 in 1994; \$27,000 in 1995 (strike year); \$44,746 in 1996 (strike year); \$45,455 in 1997; and \$40,425 in 1998.

² Pamela testified she would have about \$205 in child care expenses per week if she worked full-time. If these expenses are deducted from Pamela's projected income from full-time employment, her net income as a full-time employee could actually be less than her net income as a part-time employee.

Reginald claims the district court's alimony award is also inequitable given his annual income and Pamela's decision to be a stay-at-home mother. A discretionary award of alimony may be made after considering such factors as the length of the parties' marriage, the parties' ages and health, the parties' earning capacities, the parties' levels of education, and the likelihood the party seeking alimony will be self-supporting at a standard of living comparable to the one enjoyed during the marriage. Iowa Code § 598.21(3) (1999); *In re Marriage of Sychra*, 552 N.W.2d 907, 908 (Iowa App. 1996). The district court ordered Reginald to pay Pamela \$350 of alimony per month until Regina begins kindergarten. Pamela was a stay-at-home mother during much of the parties' marriage and economically dependant on Reginald. The district court's alimony award will ease Pamela's transition from stay-at-home mother to employed mother. The district court's alimony award was appropriate.

Reginald's final claim is the district court's distribution of the parties' real estate and indebtedness is inequitable. As part of its property distribution, the court gave Pamela the parties' home (roughly \$31,200 net value) and ordered Reginald to pay the money owed to his mother (roughly \$15,200). Reginald asserts the resulting "gross inequity" should be remedied by granting him a lien in the home bearing seven-percent interest annually. The Iowa Code calls for an equitable distribution of property upon a dissolution of marriage, not an equal division or percentage distribution of property. Iowa Code § 598.21(1); *In re Marriage of Russell*, 473 N.W.2d 244, 246 (Iowa App. 1991). Given the circumstances of this case, the property distribution between Pamela and

Reginald was equitable. Each party received roughly \$35,000 in total assets. Reginald was ordered to assume more debt than Pamela, but almost all of that debt was money owed Reginald's mother. The money owed Reginald's mother, in turn, can be traced to Reginald's premarital debts—Pamela entered the parties' marriage debt-free. The district court's property distribution was equitable.

We affirm the district court.

AFFIRMED.