FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF CARLTON W. HOLMES, JR. and GERTRUDE R. HOLMES

Upon the Petition of)
CARLTON W. HOLMES, JR.,)
Petitioner-Appellee,)
And Concerning)
GERTRUDE R. HOLMES,)
Respondent-Appellant.)

Filed November 24, 1981

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Appeal from Des Moines District Court - Harlan W. Bainter, Judge.

Respondent-wife appeals from the alimony and child support provisions of the parties' dissolution of marriage decree; petitioner-husband cross-appeals from the alimony, attorney's fees, property division, and child custody provisions. AFFIRMED AS MODIFIED.

J. Bryan Schulte of Dailey, Ruther, Bauer, Schulte & Hahn, Burlington, Iowa, for respondent-appellant.

T. K. Ford, Burlington, Iowa, for petitioner-appellee.

Heard by Oxberger, C.J., and Donielson, Carter and Johnson, JJ. Snell, J., takes no part.

PER CURIAM

Respondent-wife appeals from the alimony and child support provisions of the parties' dissolution of marriage decree; petitioner-husband cross-appeals from the alimony, attorney's fees, property division, and child custody provisions. The wife argues that the amounts of alimony and child support awarded were inadequate, while the husband asserts that the attorney's fees and alimony were excessive, the property division was unjust and inequitable, and that the best interests of the children require that their custody be awarded to him. We review these issues **de novo.** Iowa R. App. P. 4.

The twenty-three year marriage of petitioner, Carlton W. Holmes, Jr., and respondent, Gertude R. Holmes, was ended August 15, 1980, with the final decree being entered October 30, 1980. Five children were born of this marriage, but only the custody of the two minors, John and Michelle, aged 16 and almost 11 respectively, was in contention at the time of trial. The court found that Gertrude brought essentially no monetary assets to the marriage and gave up her bookkeeping job shortly before the birth of the couple's first child. Since then she has been a full-time wife, mother, and homemaker. She is not employed outside the home now, but could possibly earn $100 a week at relatively unskilled work. Carl owned somewhat more than $16,000 worth of assets at the time of the marriage, worked in a financial institution during the marriage, and is currently president of a savings and loan. He receives an annual salary of $72,266 and in 1979 earned a bonus which brought his salary to $90,000 for that year. The couple also owned some investment property which generated income of approximately $17,870 per year.

The trial court awarded custody of John and Michelle to Gertrude and ordered Carl to pay $40 per week for each child's support. Gertrude was given alimony of $800 per month and property, including the family residence and its obligations, worth approximately $63,000. Carl's share of property came to $90,000; in addition, he was ordered to pay debts of the parties totalling $17,000 and Gertrude's attorney's fees of $3,491.22.

I. Child Custody and Support. Although not all the testimony concerning placement of John and Michelle was in agreement, we find, as the trial court did, that Gertrude should be the custodial parent. She has demonstrated superior parenting in the past, the adult daughters believe she would be the better parent, and John wishes to live

with her. We also believe Carl and Michelle are close enough that Carl will continue visitation on a regular basis. Child support should remain at $40 per week per child; however, when John reaches age 18, dies, becomes self-supporting, or completes his higher education, and the support obligation to him terminates, we order Carl to then pay $70 per week for the support of Michelle until his support obligation to her terminates.

II. Property. Despite Carl's arguments to the contrary, we find the trial court fairly and equitably divided the property of the marriage. See § 598.21, The Code. Gertrude received assets of approximately $63,000, and Carl received property valued at $90,000. This division reflects the financial input of each as well as the hard work by each during the successful years of the marriage.

III. Alimony. Alimony may be based upon the needs of one spouse balanced against the ability of the other spouse to pay, and factors listed in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968), absent those relating to fault, In re Marriage of Williams, 199 N.W.2d 339, 344 (Iowa 1972), are still the guidelines for this court in determining the amount of alimony to be awarded. The trial court ordered Carl to pay Gertrude $800 per month in alimony until she remarries or either party dies. In reviewing the evidence, we find this amount is not sufficient to meet Gertrude's needs, even when coupled with any income she may earn, child support, or income generated from her share of the marital property. The amount of alimony should therefore be increased, and Carl is ordered to pay $1,100 per month as alimony to Gertrude under the same conditions established by the trial court. The increase which is ordered is retroactive to the date of the trial court's decree.

IV. Attorney's Fees and Costs. We affirm the order of the trial court directing Carl to pay Gertrude's attorney's fees at trial. The award of attorney's fees is discretionary and based upon the relative financial position of the parties. Locke v. Locke, 263 N.W.2d 694, 696 (Iowa 1978). Without fixing the amount of Gertrude's attorney's fees, we order Carl to pay $1,200 towards that fee for this appeal. The costs of this appeal are also assessed against Carl; however, we note that costs of Gertrude's printed materials have exceeded that which is established by Iowa R. App. P. 16(c). Carl is therefore to pay printing costs only to the extent that they do not exceed $4.00 per page. Any cost above that amount is assessed to Gertrude. State v. Bruns, 304 N.W.2d 217, 219 (Iowa 1981).

AFFIRMED AS MODIFIED.