IN THE COURT OF APPEALS OF IOWA

No. 7-100 / 96-0873

000343

IN RE THE MARRIAGE OF LARRY WAYNE TOWNES AND SANDRA KAY TOWNES

Upon the Petition of
LARRY WAYNE TOWNES,

Petitioner-Appellant,

And Concerning
SANDRA KAY TOWNES,

Respondent-Appellee.

FILED
MAY 29 '97
CLERK SUPREME COURT

Appeal from the Iowa District Court for Polk County, Gene L. Needles, Judge.

Petitioner appeals various economic provisions of the parties' dissolution decree. **AFFIRMED.**

Ronald A. Baybayan of the Baybayan Law Firm, Des Moines, for appellant.

Glenn Goodwin of Finley, Alt, Smith, Scharnberg, May & Craig, P.C., Des Moines, for appellee.

Considered by Sackett, P.J., and Huitink and Streit, JJ.

SACKETT, P.J.

Petitioner-appellant Larry Wayne Townes appeals challenging the length and amount of alimony awarded respondent-appellee Sandra Kay Townes in the parties' dissolution decree. We affirm.

Larry and Sandra Townes were married in 1969. Their three children are now adults. Sandra was the principal homemaker and child care provider. She worked for a short time in a fast food establishment, but has few marketable skills. Larry has been employed outside the home during the marriage, and since 1976 he has been an employee of the United States Postal Service. He currently earns an annual salary of $37,600. He has worked substantial overtime and, as a result of the overtime, his annual earnings for the years 1993 to 1995 have been about $43,000.

The parties separated in 1990. The dissolution petition was filed by Larry in mid-July 1995. During the separation, Larry paid Sandra $500 a month. When the dissolution petition was filed, he ceased these voluntary payments. Sandra obtained a temporary support order and Larry paid the ordered support.

At the time of trial in April 1996, Sandra lived in housing provided by her church. She did labor at the church for her rent. Her maximum earning has been $120 a week.

The parties had few assets other than vehicles with little equity and some household furnishings of minimal value. The major asset was Larry's Postal Service savings account.

The trial court found Sandra could obtain more substantial employment and considered that she could at least be holding a full-time job and earning a minimum wage. The court found no assets to divide other than Larry's pension and set Larry's alimony obligation to Sandra at $700 per month for four years, at which time alimony would decrease to $500 per month or fifteen percent of Larry's wages, whichever is greater, until either party dies or Sandra remarries, cohabitates with another, or reaches age sixty-five.

The trial court also entered a qualified domestic relations order providing that Larry's normal retirement benefits under the plan as of April 22, 1996, should be divided in two parts and, subject to the provisions of the decree, Sandra was awarded one part. Larry was also ordered to pay $1000 toward Sandra's attorney fees. Neither the provisions of the qualified domestic relations order nor the award of trial attorney fees are challenged on appeal.

Larry claims the alimony award is excessive as to amount and length of time of payment. We review de novo. Iowa R. App. P. 4.

Alimony is a stipend made to one former spouse in lieu of the other's legal obligation for support. *In re Marriage of Francis*, 442 N.W.2d 59, 62 (Iowa 1989). Alimony is not an absolute right; an award depends upon the circumstances of each particular case. *In re Marriage of Fleener*, 247 N.W.2d 219, 220 (Iowa 1976). The discretionary award is made after considering those factors listed in Iowa Code

section 598.21(3). *In re Marriage of Grauer*, 478 N.W.2d 83, 84 (Iowa App. 1991); *see also In re Marriage of Hayne*, 334 N.W.2d 347 (Iowa App. 1983).

Spousal support is provided for under Iowa Code section 598.21(3). Whether spousal support is justified is dependent on the facts of each case. *In re Marriage of Weiss*, 496 N.W.2d 785, 787 (Iowa App. 1992); *see also Fleener*, 247 N.W.2d at 220. In assessing a claim for alimony, we consider the property division and alimony together in determining their sufficiency. *See In re Marriage of Lattig*, 318 N.W.2d 811, 815 (Iowa App. 1982).

Entitlement to spousal support is not an absolute right. *In re Marriage of McFarland*, 239 N.W.2d 175, 179 (Iowa 1976). An alimony award is justified when the distribution of the assets of the marriage does not equalize the inequities and economic disadvantages suffered in marriage by the party seeking the alimony who also has a need for support. *Weiss*, 496 N.W.2d at 787-88.

This was a long-term marriage. Sandra accepted the responsibility for the three children and the home. She is forty-seven years old and has minimal employment skills and little or no job experience. She is in need of alimony. Larry, during the marriage, established himself in a good, stable job. He earns a good salary and has the ability to contribute to Sandra's support. The parties have saved little money other than the forced pension contributions. The amount and term of spousal support fixed by the trial court is fair and equitable and will not be disturbed on appeal.

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Sandra requests attorney fees on appeal. We order that Wayne pay $1500 towards her appellate attorney fees.

AFFIRMED.