FILED
AUG 27 1986
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

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IN RE THE MARRIAGE OF SHELLI RAE CROUSE AND JEFFREY PAUL CROUSE

UPON THE PETITION OF SHELLI RAE CROUSE,	)	
Petitioner/Appellant/Cross-Appellee,	)	
AND CONCERNING JEFFREY PAUL CROUSE,	)	6-127 85-1329
Respondent/Appellee/Cross-Appellant.	)	

Appeal from the Iowa District Court for Webster County (No. DM-3499), Russell J. Hill, Judge.

Petitioner Shelli Crouse appeals the child support and the property division provisions of the trial court's dissolution decree. **MODIFIED AND AFFIRMED.**

Dan T. McGrevey of McGrevey & Sherman, Fort Dodge, for appellant.

James R. Van Dyke of Van Dyke & Werden, Carroll, for appellee.

Considered by Oxberger, C.J., Donielson, and Schlegel, JJ.

SCHLEGEL, J. 63

Petitioner Shelli Crouse appeals the child support and the property division provisions of the trial court's dissolution decree. We modify and affirm.

Jeff and Shelli Crouse were married on February 10, 1979, shortly after Shelli had finished high school. Jeff had graduated from high school several years earlier and was working for his father's trucking company at the time of the marriage. The parties have two girls, aged seven and five.

Their marriage was dissolved on July 5, 1985. So far as relevant to this appeal, both parties were awarded joint custody of the girls, and Shelli was awarded physical custody. Jeff was ordered to pay $100 per month alimony until Shelli remarried or cohabited with another man, or August 15, 1987, whichever came first. Jeff was also required to pay $500 per month child support until the children completed their education, reached eighteen, or otherwise became emancipated. The decree also provided for continued support should the children decide to attend college. In the event the child support obligations ended for one child, the amount of support Jeff would have to pay would be reduced to $350 per month.

The trial court awarded Shelli the 1984 Ford Escort, and awarded Jeff the remaining vehicles that were registered in Crouse Carthage Company, but were used exclusively by Jeff and Shelli. Jeff was awarded all of the stock owned by the parties in Crouse Carthage Company. Shelli was awarded a lump sum of $12,000 with interest at ten percent per annum from the date of the decree. Jeff was awarded the remaining marital real estate assets.

Shelli appeals the child support and property division provisions of the dissolution decree. She maintains that the support award is inadequate and that the property settlement is inadequate. She also requests attorneys fees for this appeal. Jeff cross-appeals, alleging the trial court erred in awarding

Shelli primary physical custody of the child or, in the alternative, in not allowing him more visitaiton.

Our review of this equitable proceeding is de novo. Iowa R. App. P. 4. Our responsibility is to review the facts as well as the law and to determine rights anew from the credible evidence on properly presented and preserved issues. In re Marriage of Castle, 312 N.W.2d 147, 148 (Iowa App. 1981). While we give weight to the findings of the trial court, especially where the credibility of witnesses is involved, we are not bound by them. Id.; Iowa R. App. P. 14(f)(7).

I. Child Support.

Child support should be fixed on a case-by-case basis and legal precedents are of little help in arriving at the amount to be set. Cooper v. Cooper, 259 Iowa 277, 282, 144 N.W.2d 146, 149 (Iowa 1966). Both parents have an obligation to support their children, although not necessarily equally, but proportionately according to their ability and circumstances. See In re Marriage of Byall, 353 N.W.2d 103, 108 (Iowa App. 1984). Determining the level of child support involves the consideration of numerous factors. Those factors are set out in section 598.21(4), Code of Iowa 1985. Important to that determination is a determination of the ability of the noncustodial parent to pay support.

The record shows that Jeff has terminated his employment with his father's company and is returning to school. This factor is not looked upon as favorable to Jeff's position regarding the determination of child support obligations. See Reed v. Reed, 152 N.W.2d 190, 191 (Iowa 1967). We feel, rather, that in considering Jeff's ability to pay and circumstances, support shall be set at $565 per month for both children. We do not consider this amount to be beyond Jeff's financial resources and ability to pay.

II. Division of Assets.

Our analysis is governed by Iowa Code section 598.21 (1979), which has codified many aspects of our prior case law. The ultimate question is, as it

has always been, whether the distribution of property was equitable. We reject any rule based on a percentage division of the assets and must determine what is equitable under the specific facts of this case. In re Marriage of Lattig, 318 N.W.2d 811, 814 (Iowa App. 1982). However, we do take into account factors such as the duration of the parties' marriage, their respective ages and earning capacities, and the property brought into the marriage. Locke v. Locke, 246 N.W.2d 246, 251 (Iowa 1976); Iowa Code § 598.21(1); see also Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968).

This marriage lasted approximately five and one-half years. The record shows that Jeff brought substantial assets into the marriage and was the primary financial provider. We do take into account Shelli's contribution to the marriage in the home. However, we consider the trial court's property division equitable under all the circumstances of this case. Therefore, we decline to disturb the division of assets in the decree.

III. Attorneys Fees.

The primary consideration in making an award of attorneys fees is the parties' resources. In re Marriage of Winegard, 257 N.W.2d 609, 618 (Iowa 1977). The record shows that Jeff has more than sufficient resources while Shelli would have a difficult time paying for her legal services. We therefore order Jeff to pay $1500.00 toward Shelli's attorney fees.

IV. Custody.

The record shows that the trial court carefuly considered the factors set forth in Iowa Code section 598.41 (1985) and In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974). We need not repeat all of the separate factors and findings discussed by the trial court on this issue. The trial court found that for Shelli to have primary physical custody was in the best interest of the child. We will not disturb the trial court's conclusion.

We have examined Jeff's alternative claim that he should have more liberal visitation, and have determined this allegation is without merit.

We modify the trial court's dissolution decree to provide for $565 in child support per month for both children. We also award Shelli $1500 in attorney's fees. We affirm the trial court on all other issues raised.

AFFIRMED AS MODIFIED.