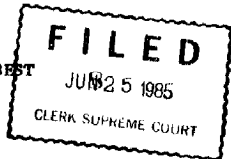


IN THE COURT OF APPEALS OF IOWA



IN RE THE MARRIAGE OF JACK N. BEST AND KAREN M. BEST

Upon the Petition of)

JACK N. BEST,)

Petitioner-Appellant,)

And Concerning)

KAREN M. BEST,)

Respondent-Appellee.)

Filed June 25, 1985

5-122
84-286

Appeal from the Iowa District Court for Marshall County - Dale E. Ruigh,
Judge

Petitioner appeals the economic provisions of the dissolution decree.
AFFIRMED AS MODIFIED.

Charles F. Fairall and Theodore R. Hogan of Fairall, Fairall and Kaplan,
Marshalltown, Iowa, for petitioner-appellant.

James D. Robertson, Jr., of Hauptert, Robertson & King, Marshalltown, Iowa,
for respondent-appellee.

Considered by Snell, P.J., Schlegel, and Sackett, JJ.

Petitioner, Jack Best, appeals the economic provisions of the dissolution decree. We affirm as modified.

Jack and respondent, Karen, were married for twenty-four years. They had three children, two of whom remain at home.

At the time of dissolution Jack was 42 years old. He has a college degree and works as an executive for General Dynamics. His gross income exceeds \$60,000, and his net income exceeds \$37,000.

At the time of dissolution Karen was 41 years old. She has not been employed outside the home since 1966. She recently obtained a G.E.D., and intends to earn a college degree in hotel management.

Our review in this equity action is de novo. Iowa R. App. P. 4.

I. Property Division. Jack challenges several aspects of the property division. We have examined the division of property and considered the criteria found in Iowa Code section 598.21(1) (1983). We adopt the reasoning of the trial court and affirm the property division in full.

II. Support Payments. Jack contends that the child support and alimony payments ordered by the trial court are too large. Considering the criteria of Iowa Code section 598.21(4) (1983), we affirm the child support payments. The alimony payments, however, must be modified.

The dissolution decree ordered Jack to pay \$900 per month for alimony, beginning January 1, 1984. The payments are ordered to continue unchanged until Karen's death or remarriage, or until Jack's death.

Iowa Code section 598.21(3) (1983) sets out the criteria to be considered in awarding alimony. One of the criteria is "[t]he earning capacity of the party seeking maintenance, including . . . the time and expense necessary to acquire sufficient education . . . to enable the party to find appropriate employment." Iowa Code § 598.21(3)(e) (1983). The record shows that Karen lacks advanced

education and is unemployed. The record also shows, however, that she plans to earn a college degree. Once she does earn a degree her earning capacity will increase. The alimony provision of the dissolution decree fails to take that increased earning capacity into account. Accordingly, we modify the alimony award. Beginning January 1, 1990, alimony payments will be reduced to \$200 per month.

III Attorney Fees. Karen asks that Jack be ordered to pay for her attorney fees for this appeal. Considering the outcome of the appeal and each party's ability to pay, we believe Jack should make such a contribution. Without determining the reasonable attorney fees on appeal, we order Jack to pay \$1,000 of Karen's attorney fees.

AFFIRMED AS MODIFIED.