

IN THE COURT OF APPEALS OF IOWA

No. 6-157 / 95-447

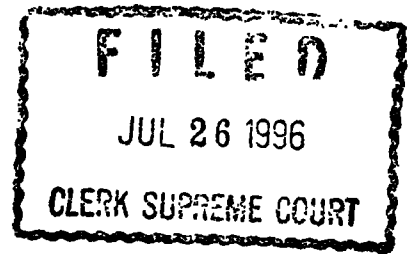
**IN RE THE MARRIAGE OF LORI LYNN CAMPBELL
AND KENNETH DOYLE CAMPBELL**

Upon the Petition of
LORI LYNN CAMPBELL,

Petitioner-Appellee/Cross-Appellant,

And Concerning
KENNETH DOYLE CAMPBELL,

Respondent-Appellant/Cross-Appellee.



Appeal from the Iowa District Court for Ringgold County, Richard D. Morr,
Judge.

Kenneth Campbell appeals, and Lori Campbell cross-appeals, from the
provisions of the parties' dissolution decree. **AFFIRMED AS MODIFIED.**

Elisabeth S. Cheers of Reynoldson, Van Werden, Kimes, Reynoldson, Lloyd
& Cheers, L.L.P., Osceola, for appellant.

Scott Swier of Wilson & Swier, P.C., Lenox, for appellee.

Considered by Sackett, C.J., Habhab, and Huitink, JJ.

PER CURIAM

This is an appeal by a husband challenging the child support provision of the parties' dissolution decree. The wife has cross-appealed on the issues of child support, medical expenses, and trial attorney fees. We affirm as modified by memorandum opinion pursuant to Iowa Supreme Court Rule 9.

Lori and Kenneth Campbell were married in 1989. They have three children: Tyler, born in 1989; Emily, born in 1991; and Sarah, born in 1993. Kenneth is employed as a registered nurse. He works full-time at Afton Care Center, Inc., where he earns \$21,320, and part-time at Clearview Homes, where he earns \$9568. His net monthly income from these two jobs is \$1881. During the marriage Lori became an LPN. At the time of the dissolution hearing, she was employed part-time for Universal Health Care, where she earns about \$8500 annually. If Lori worked full-time as an LPN, she would earn about \$17,680 and have net monthly income of \$746.

The district court issued a dissolution decree for the parties on February 17, 1995. The court granted the parties joint legal custody of the children, with Lori having primary physical care. In setting child support, the court considered Kenneth's income from his two jobs, plus the fact he lived rent-free in a home owned by his father, and used net monthly income of \$2000 per month for Kenneth. The court also considered Lori's earning capacity, and used \$746 per month as her net monthly income. Using these figures, the court set Kenneth's child support obligation at \$752 per month.

The court divided the parties' property to give Kenneth total net assets with a negative value of \$145, and Lori was awarded assets with a value of \$2500. Kenneth was ordered to provide health insurance for the children, with each party to pay one-half of the medical expenses not covered by insurance. Kenneth has appealed, and Lori has cross-appealed.

I. Kenneth contends his child support obligation is excessive. He believes the court should only have considered his full-time job in setting child support. Overtime income should be used in calculating net monthly income for child support purposes, unless the overtime is uncertain or speculative. *In re Marriage of Brown*, 487 N.W.2d 331, 333 (Iowa 1992). Here, Kenneth has steady income from his part-time job. However, we disagree with the court's decision to impute additional income to Kenneth because he does not pay rent. We believe Kenneth's child support obligation should be set based on his net monthly income of \$1881.

Lori claims Kenneth's child support obligation should be increased. She believes the court should have used her actual earnings instead of her earning capacity. Lori has the ability to work full time and, indeed, did work full-time until shortly before the dissolution hearing. Using \$1881 as Kenneth's net monthly income and \$746 as Lori's net monthly income, we determine Kenneth's child support obligation should be \$707 per month.

II. Lori contends she should not be required to pay one-half of the children's medical expenses which are not covered by insurance. She states Kenneth obtained

insurance with a large deductible, and he should be responsible for the expenses not covered by insurance. We find each party is able to contribute to the medical expenses not covered by insurance. We affirm the court's decision on this issue.

III. Lori claims the district court abused its discretion by failing to award her trial attorney fees. Iowa trial courts have considerable discretion in awarding attorney fees. *In re Marriage of Hunt*, 476 N.W.2d 99, 103 (Iowa App. 1991). We find no abuse of discretion under the facts of this case.

IV. Each party seeks attorney fees for this appeal. We determine each party should pay his or her own attorney fees arising from the appeal.

We affirm the district court on each issue raised in this appeal, except that we have modified Kenneth's child support obligation. Costs of this appeal are assessed one-half to each party.

AFFIRMED AS MODIFIED.