

FILED

IN THE COURT OF APPEALS OF IOWA FEB 24 1981

CLERK SUPREME COURT

IN RE MARRIAGE OF JAMES P. COOPER AND SHEILA KAY COOPER

Upon the Petition of	)	
JAMES P. COOPER,	)	Filed February 24, 1981
Petitioner-Appellant,	)	0-341
And Concerning	)	2-65345
SHEILA KAY COOPER,	)	
Respondent-Appellee.	)	

Appeal from Polk District Court - Richard A. Strickler, Judge.

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

Ann Fitzgibbons, of Scalise, Scism, Gentry, Brick & Brick, Des Moines, for petitioner-appellant.

Ronald L. Anderson, of Dickinson, Throckmorton, Parker, Mannheimer & Raife, Des Moines, for respondent-appellee.

Heard by Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Petitioner, James Cooper, appeals the economic provisions of a dissolution decree. We affirm with modification.

James and Sheila Cooper were married for eighteen years and had three minor children at the time of dissolution. Custody was awarded to Sheila and is not at issue here. James has been involved in business enterprises with Larry Kriegh for several years and receives his salary, which amounted to \$35,000 in 1979, from one of Kriegh's companies. In addition, James receives substantial fringe benefits including free use of automobiles, gasoline and liberal reimbursement for travel and living expenses. With the exception of the first year of marriage, Sheila has not worked outside the home, nor has she developed special career skills. Her primary role as homemaker, wife and mother was desired by the parties during the marriage.

The trial court sought to equitably divide the marital property consisting of the homestead, furniture, snowmobiles, race car and interests in various properties. Sheila was awarded child support, alimony and attorney fees. James was ordered to pay accumulated debts of the marriage and to provide for the youngest child's orthodontist's expenses and a school related trip. He was also ordered to pay up to one thousand dollars for secretarial training expenses for Sheila.

James appeals these provisions. Our review is de novo. Iowa R. App. P. 4. Factors to consider are set forth in Schantz v. Schantz, 163 N.W.2d 398 (Iowa 1968); as modified to exclude fault in In re Marriage of Williams, 199 N.W.2d 339 (Iowa 1972); see also §598.21, The Code 1979, as amended by 1980 Session, 68th G.A., ch. 1175.

I. Property Settlement

James asserts the trial court improperly placed a value on his interest in four properties. He alleges deeds, issued and recorded showing his 25% ownership, do not reflect a value since he has not paid for those interests per a verbal agreement with Kriegh, the original owner. Testimony of both James and Kriegh however, does not specify any amount owing to "purchase" the equity interest. Rather, the evidence tends to show the continuing practice between James and Kriegh of sharing or giving property interests to each other in exchange for services rendered. We are in agreement with the trial court that James' interest of 25 per cent of the equity value in the properties was to be included in the marital property.

The trial court ordered James to pay the debts accrued during the marriage. These include charge accounts totaling \$1,500, a Central Iowa Heating bill of \$111.03, an Iowa Power bill of \$673.85, a Rick's Service bill of \$110, and a telephone bill of \$800. James has been ordered to pay up to \$1,000 for Sheila's schooling and \$700 for the daughter's braces and school trip. Attorney fees were awarded to Sheila in the amount of \$1,600. While James is in a better financial situation to pay these expenses at the present time, we find credit is warranted to him for releasing Sheila of these obligations. We modify the decree to allow James an increase in his share of the equity in the homestead in an amount equaling one-half of payments made by James on the above mentioned items. In addition, we find James entitled to interest on his outstanding share of the equity, such interest to be assessed at 12 per cent per annum from the date of filing the dissolution decree.

II. Support Payments

James argues the alimony and child support awards are excessive. James receives \$918 net pay every two weeks. Sheila views herself as unsuited for gainful employment at this time and intends to attend the area college for one school year to acquire secretarial training. During this year, James has been ordered to pay \$600 a month in alimony. Upon completion of training, Sheila expects to earn between \$600 and \$900 a month, and the alimony is to be reduced to \$300 per month.

The court awarded child support in the amount of \$60 per week, per child until each child graduated from high school, married or become emancipated. The court retained jurisdiction to determine if support should continue for higher education needs of the children. At the time of dissolution, the children's ages were 17, 16 and 13 years. During the marriage, the family maintained a life style they considered middle to upper middle class.

James does not argue that alimony is unwarranted in this situation. He only asks for a reduction to \$300 a month. In view of the fact the \$600 amount applies only to the time period in which Sheila will be in school and unable to work full time, we agree with the trial court and do not disturb this provision.

The amount of the child support award is justified under the circumstances. Throughout the marriage, the children have been encouraged to develop various

interests and have become accustomed to a certain life style. Furthermore, James is financially able to meet this obligation, albeit with some constraints the first year.

Being in agreement with the trial court, we affirm the decree provisions except as herein modified.

Application has been made by Sheila for attorney fees in this appeal. Considering factors of Sheila's need and James ability to pay, we award \$500 in attorney fees to Sheila for expenses incurred in the appeal.

AFFIRMED AS MODIFIED.