

FILED

JAN 26 1983

CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF JAMES A. RUS AND ANNA MAE RUS

00137

Upon the Petition of)

JAMES A. RUS,)

Petitioner-Appellant,)

And Concerning)

ANNA MAE RUS,)

Respondent-Cross-Appellant.)

Filed January 26, 1983

2-462
2-68369

Appeal from Marion District Court - Robert O. Frederick, Judge.

Petitioner-husband appeals and respondent-wife cross-appeals from various economic provisions of the parties' dissolution decree. **AFFIRMED.**

James K. Marvel and Bert A. Bandstra, Marion, Iowa, for petitioner-appellant.

John N. Diehl and Roger D. Williams of Diehl, Clayton, Cleverley & Knopf, Newton, Iowa, for respondent-cross-appellant.

Considered en banc.

PER CURIAM

Petitioner-husband appeals and respondent-wife cross-appeals from various economic provisions of the parties' dissolution decree. Both claim that the property division and alimony awards are inequitable. In addition, the husband claims that the trial court misapplied the factors found in Iowa Code § 598.21 in determining the economic provisions and erred in awarding attorney fees to the wife. Our review is **de novo**. Iowa R. App. P. 4. We affirm.

James and Anna Mae Rus were married on July 13, 1944; no children were born in the marriage. James was in the military until he received a medical discharge in 1944 due to an accident. He then operated a feed company with his brother-in-law until 1954 when he farmed full-time until his retirement in 1971. Anna performed some clerical duties for the feed company, but otherwise worked as a homemaker, retaining no outside employment. Both parties have various physical problems; James still suffers from the 1944 accident as well as injuries he received in 1969, while Anna has very poor eyesight, high blood pressure and a heart condition.

Throughout the marriage, the parties accumulated assets with a total value of approximately \$262,000. This includes a number of stocks and treasury bills worth over \$110,000, interests in two contracts worth nearly \$120,000 and a house worth \$30,000. In the decree, Anna was awarded her household goods, personal property and various bank accounts in her name. She was also awarded a cash property settlement of \$100,000 to be paid on or before July 1, 1982 and drawing 10% interest after March 15, 1982. James was also ordered to pay alimony in the amount of \$400 per month beginning April 1, 1982, and continuing until the death of either party or until Anna remarries. Finally, Anna was awarded \$1,500 in attorney fees. The rest of the marital property was left to James. He brought this appeal while Anna cross-appealed.

Both parties complain about the property division and the alimony award to Anna. Upon consideration of the factors listed in Iowa Code §§ 598.21(1) and (3), respectively, we are convinced that these provisions of the decree are equitable. We are also convinced that the trial court properly considered the relevant statutory factors. In this regard, James asserts that the court should not have considered his military disability benefits in determining the alimony award. We see no reason to ignore this tax-free source of income as a relevant factor in determining James' financial resources and ability to pay alimony; see Iowa Code § 598.21(3)(j). He also claims that the trial court did not consider the tax consequences of the property settlement despite the statutory mandate to the contrary; see Iowa Code § 598.21(1)(j). We disagree. First, James does not point to anything in the decree or in the proceedings below to substantiate his claim other than his dissatisfaction with the result. We will not assume that the trial court ignored the relevant economic criteria without a stronger showing to this effect on James' part. Second, we believe the decree does in fact consider the tax consequences. James was left with approximately 60% of the parties' net asset value while Anna was left with the other 40%. He should be able to absorb any tax liability which may result from carrying out his obligations under the decree with his greater share of the property.

Finally, James contends that he should not have been ordered to pay \$1,500 of Anna's attorney fees. Dissolution courts have considerable discretion in these matters. In re Marriage of Schissel, 292 N.W.2d 421, 428 (Iowa 1980). The court here did not abuse its discretion in making this award of fees; we see no reason to disturb its decision.

We have considered all of the issues raised by James and Anna and conclude that the decree should be affirmed in its entirety.

AFFIRMED.