FILED
AUG 27 1991
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 1-65 / 90-911

IN RE THE MARRIAGE OF FLORENCE ANN ASHLEY AND THEODORE WESLEY ASHLEY, JR.

20

Upon the Petition of
FLORENCE ANN ASHLEY,

Appellee,

And Concerning
THEODORE WESLEY ASHLEY, JR.,

Appellant.

Appeal from the Iowa District Court for Polk County, Jack D. Levin, Judge.

The husband has appealed a dissolution decree, challenging economic provisions. **AFFIRMED.**

David Shinkle of Rogers, Reavely, Shinkle & Reimer, Des Moines, for appellant.

Carol L. Coppola of Coppola, Trout & Taha, Des Moines, for appellee.

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

HAYDEN, J.

Florence and Theodore Ashley were married in 1965. Their three children are all adults.

Ted is forty-four years old. He is a lumber yard employee earning $8 per hour for a gross income of $1650.90 per month. Ted is not a high school graduate and has no specialized training or experience. Although he has had some health problems, currently he is in good health.

Florence is forty-one years old. She earns $5 per hour from a full-time job and an additional $235 per month from a part-time job. Her gross income is approximately $1260 per month. She receives no benefits from either job. After the parties separated Florence obtained an equivalency diploma. Florence has several health problems, including a degenerative disk disease, a nerve infirmity, hypoglycemia, and deafness in one ear.

The parties' only significant asset was a house which was modest but free of debt. The district court directed the house sold and the net proceeds divided equally between the parties.

The district court directed Ted to pay Florence alimony of $160 per month until she dies, remarries, or reaches the age of sixty-two. The district court also directed Ted to provide Florence with health insurance through his employment. Ted asserts the cost of providing health insurance for Florence is currently $89 per month.

Ted appeals the trial court's decision requiring him to pay alimony and maintain health insurance for Florence claiming the decision is unwarranted and inequitable. Florence requests attorney fees on appeal.

In this equity action, our review is de novo. Iowa R. App. P. 4. We have a duty to examine the entire record and adjudicate anew rights on the issues properly presented. In re Marriage of Steenhoek, 305 N.W.2d 448, 452 (Iowa 1981). We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses, but are not bound by them. Iowa R. App. P. 14(f)(7).

Alimony is not an absolute right; an award depends upon the circumstances of each particular case. In re Marriage of Fleener, 247 N.W.2d 219, 220 (Iowa 1976). The discretionary award of alimony is made after considering those factors listed in Iowa Code section 598.21(3). See In re Marriage of Hayne, 334 N.W.2d 347 (Iowa App. 1983).

The district court based its award of alimony on several factors. First, the parties were married approximately twenty-four years. Second, the court found it was unlikely Florence would be able to keep her second job due to her health and her need for further schooling in order to continue the job. Finally, Florence's health problems cause her added expenses. Based on this record, we find no reason to disturb the award of alimony and the provision for Ted to provide health insurance for Florence.

Florence seeks attorney fees for this appeal. An award of attorney fees is not a matter of right, but rests within the court's discretion and the parties' financial positions. In re Marriage of Kern, 408 N.W.2d 387, 390 (Iowa App. 1987). We are to consider the needs of the party making the request, the ability of the other party to pay, and whether the party making the request was obligated to defend the trial court's decision on appeal. In re Marriage of Castle, 312 N.W.2d 147, 150 (Iowa App. 1981). We order Ted to pay $500 towards Florence's attorney fees for this appeal. Costs on appeal are taxed to Ted.

AFFIRMED.