FILED
AUG 27 1992
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 2-043 / 91-892

IN RE THE MARRIAGE OF DONNA MAE STACHAR AND ALLEN LESTER STACHAR

Upon the Petition of
DONNA MAE STACHAR,

Appellant,

And Concerning
ALLEN LESTER STACHAR,

Appellee.

Appeal from the Iowa District Court for Muscatine County, Max R. Werling, Judge.

The wife appeals from a dissolution decree, challenging only the limited duration of her alimony award. **AFFIRMED AS MODIFIED.**

Gregory A. Johnston, Muscatine, for appellant.

Robert H. DeKock, Muscatine, for appellee.

Considered by Schlegel, P.J., and Hayden and Habhab, JJ.

HAYDEN, J.

Donna and Allen Stachar were married in 1961. They had no children of their own, but they jointly raised Donna's four children from a previous marriage. The parties lived in Muscatine, Iowa, during the marriage.

Allen was sixty-five years old at the time of the dissolution hearing. He retired from his employment at Grain Processing Corporation in 1987. Allen receives retirement income of $1,133 per month; this income includes $411 per month from an employment pension and $722 per month from social security. In the event Allen predeceases Donna, his employment pension will continue to pay Donna $411 per month for the rest of her life.

Donna was fifty-nine years old at the time of the dissolution hearing. Donna was primarily a homemaker during the marriage; she has a limited education and little employment experience. After the parties separated, she found work as a cleaning lady. She currently works about thirty hours per week for $4.25 per hour and has net monthly income of about $503.

Donna has some medical problems, and she must pay $110 per month for prescriptions. Also, after the divorce she is no longer covered by Allen's medical insurance. In the future she will have to pay about $175 per month for medical insurance.

The parties receive $173.87 per month from the sale of a cabin. These payments will continue until 1993. The

payments are given to the bank, and the parties then pay a reduced mortgage payment each month.

The marriage was dissolved on March 19, 1991. The district court determined Donna should have the right to occupy the marital home until such time as she remarries, cohabits with a person of the opposite sex, or dies, whichever occurs first. At that time the property is to be sold and the proceeds equally divided. The court ordered the parties to consolidate the mortgage with certain other debts. The payment on the consolidated loan is $212 per month. Donna is responsible for this debt, and the cabin payments are to be applied toward the debt. The parties were awarded their own vehicles.

The court ordered Allen to pay alimony of $300 per month. The alimony payments will cease at the earliest of the following events: (1) two months after Donna reaches sixty-two years of age; (2) she remarries, (3) she cohabits with a member of the opposite sex; (4) she dies; or (5) Allen dies. The court noted at age sixty-two Donna will be entitled to $343 per month in social security benefits. Donna has appealed only the duration of the alimony payments.

Our scope of review in dissolution cases is de novo. In re Marriage of Craig, 462 N.W.2d 692, 693 (Iowa App. 1990). While not bound by the trial court's determination of factual findings, we will give them considerable weight, especially when considering the credibility of witnesses. Id.

We consider property division and alimony together in evaluating their individual sufficiency. In re Marriage of Whelchel, 476 N.W.2d 104, 110 (Iowa App. 1991). Alimony is not an absolute right; an award depends upon the circumstances of each particular case. Id. When determining the appropriateness of alimony, the court should consider the earning capacity of each party. In re Marriage of Oler, 451 N.W.2d 9, 13 (Iowa App. 1989). Also, the ability of one spouse to pay should be balanced against the needs of the other spouse. Id.

The parties here were married for twenty-nine years. Donna has very limited earning capacity. Furthermore, we find after the cabin payments cease, Donna will have expenses of about $497 per month just for her prescriptions, health insurance, and mortgage. Thus, even if she continues her employment after she begins to receive social security benefits at age sixty-two, she will have very little money to live on.

We modify the dissolution decree to eliminate the termination of alimony payments two months after Donna turns sixty-two. Allen must pay alimony of $300 per month until Donna remarries or cohabits with a member of the opposite sex, or upon the death of either party.

Donna asks for 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 Hunt, 476 N.W.2d 99, 103

(Iowa App. 1991). We determine each party should be responsible for his or her own attorney fees.

Costs of appeal are assessed to Allen.

AFFIRMED AS MODIFIED.