IN THE COURT OF APPEALS OF IOWA

No. 1999-368 (9-621) / 98-1961
Filed March 15, 2000

IN RE THE MARRIAGE OF PEGGY LOUISE DAVIS AND MARTIN LEROY DAVIS

Upon the Petition of
PEGGY LOUISE DAVIS,
Petitioner-Appellee,

And Concerning
MARTIN LEROY DAVIS,
Respondent-Appellant.

FILED
MAR 15 2000
CLERK SUPREME COURT

Appeal from the Iowa District Court for Linn County, Kristin L. Hibbs, Judge.

Martin Davis appeals the property distribution provision of the parties' dissolution decree and asks for alimony. **AFFIRMED.**

Kevin P. Shea of Shea Law Offices, Cedar Rapids, for appellant.

Susan H. Sibert of Lynch, Dallas, Smith & Harman, P.C., Cedar Rapids, for appellee.

Considered by Mahan, P.J., and Zimmer and Vaitheswaran, JJ.

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PER CURIAM

Martin Davis appeals certain economic provisions of the parties' dissolution decree. He claims the distribution of property was not equitable to him and he should have been awarded rehabilitative alimony. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court Rule 9.

Martin and Peggy Davis were married and they have three children, two of whom are minors. At the time of the dissolution hearing in September 1998, Peggy was a supervisor at Rockwell, where she earned almost $42,000 per year. Martin was employed by Bures Electric and was training to become an electrician. He had annual income of about $18,720.

Under the terms of the parties' dissolution decree, the district court placed primary physical care of the two minor children with Peggy. Martin was ordered to pay child support of $350 per month. The court awarded Peggy assets worth about $57,513, which included the marital residence, her vehicle, and household items. Martin was awarded assets worth about $33,259, which included a home he was building, several vehicles, and household items. Each party was awarded one-half of the other party's pension. To more equitably divide the assets, the court ordered Peggy to pay Martin $5000. The division of assets resulted in Peggy receiving about sixty percent and Martin about forty percent of the assets. The court denied Martin's request for rehabilitative alimony.

I. Our scope of review in this equitable action is de novo. Iowa R. App. P. 4. We give weight to the factual findings of the district court, but are not bound by them. Iowa R. App. P. 14(f)(7).

II. Martin contends the property division was not equitable to him. He asserts the assets should have been divided equally between the parties. The partners to a marriage are entitled to a just and equitable share of property accumulated through their joint efforts. *In re Marriage of Russell,* 473 N.W.2d 244, 246 (Iowa App. 1991).

We find the division of assets was equitable under the facts of this case. Although Peggy was awarded a greater share of the assets, she is also responsible to provide a home for the minor children.

III. Martin asks to receive rehabilitative alimony of $500 per month for a period of three years in order to allow him to complete training to become an electrician. Alimony is not an absolute right; an award depends upon the circumstances of each particular case. *In re Marriage of Kurtt,* 561 N.W.2d 385, 387 (Iowa App. 1997).

We agree with the district court's conclusion alimony is not appropriate in this case. Peggy has no more education than Martin. As the district court stated, "[s]he has maintained her current job and worked her way up to the level she has now attained through her perseverance--not through advanced education." Martin testified he planned to work full-time while continuing his training as an electrician. He also testified his employer would pay part of his costs for training. Therefore, alimony is unnecessary.

IV. Peggy seeks attorney fees for this appeal. An award of attorney fees on appeal is not a matter of right, but rests within the court's discretion and the parties' financial position. *In re Marriage of Daniels,* 568 N.W.2d 51, 56 (Iowa

App. 1997). We determine each party should pay his or her own attorney fees for this appeal.

We affirm the decision of the district court. Costs of this appeal are assessed to Martin.

AFFIRMED.