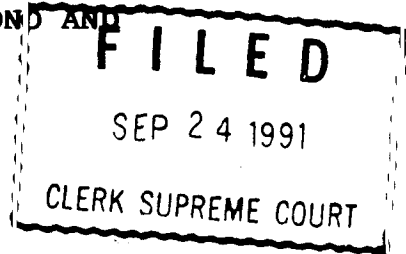


IN THE COURT OF APPEALS OF IOWA

No. 1-184 / 90-1218

377

IN RE THE MARRIAGE OF JUDY MARIE RICHMOND AND
EDWARD JOSEPH RICHMOND



Upon the Petition of

JUDY MARIE RICHMOND,

Appellant,

And Concerning

EDWARD JOSEPH RICHMOND,

Appellee.

Appeal from the Iowa District Court for Black Hawk
County, Peter Van Metre, Judge.

Wife has appealed from a dissolution decree, contending
her alimony award is inadequate. **AFFIRMED AS MODIFIED.**

Kevin R. Rogers of Swisher & Cohrt, Waterloo, for
appellant.

Jay A. Nardini of Ball, Kirk, Holm & Nardini, Waterloo,
for appellee.

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

OXBERGER, C.J.

Judy and Edward Richmond were married in 1970. They have three children, girls born in November 1974 and February 1977 and a boy born in November 1981. The dissolution decree placed the three children in joint legal custody and in Judy's primary physical care. These custody provisions are not challenged in this appeal.

Both Judy and Edward are severely hearing-impaired, as are the two younger children. Judy also has back and neck pain from a 1984 car accident.

Edward has been a factory worker throughout the marriage. Judy had little employment experience during the marriage. She has had some computer training recently from the Goodwill Training Center, but testified she will require more training to be qualified for computer-related employment. Due to her hearing impairment, her back and neck pain, and her lack of experience, she fears it will be difficult for her to find a job.

Judy presently receives social security disability benefits of \$585 per month for herself and \$480 per month for the children. Two of the children will be attending the Minnesota State Academy for the Deaf. Costs for attending the school are underwritten by the State and includes the children's living expenses during the week while the children are living at the school.

The decree awarded Judy, bank accounts of about \$5000 and awarded Edward, bank accounts of about \$3600. The decree awarded Edward his John Deere pension rights, valued at slightly over \$6000, but required him to pay Judy \$3000 to compensate her for half the pension. Each party received a car and various household goods.

The decree directed Edward to pay child support of \$118 per week as long as all three children are eligible for support. When the oldest child is no longer eligible for support, Edward's support obligation drops to \$90 per week. His obligation remains at \$90 per week for as long as either of the younger children remains eligible for support.

The decree also directed Edward to pay Judy alimony of \$100 per month for a period of two years.

Judy has appealed from the dissolution decree, challenging only her alimony award. She contends the alimony is inadequate in both amount and duration, in light of her medical problems and her limited employability. She asks that her alimony award be increased to \$250 per month for a period of five years.

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 an allowance to the ex-spouse in lieu of a legal obligation to support that person. See In re Marriage of Hitchcock, 309 N.W.2d 432 (Iowa 1981).

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).

Prior cases, though helpful, have little precedential value since the Court must base its decision primarily on the particular circumstances of each case. In re Marriage of Weidner, 338 N.W.2d 351, 356 (Iowa 1983). The Court must consider property division and alimony together in evaluating their individual sufficiency. In re Marriage of Dahl, 418 N.W.2d 358, 359 (Iowa App. 1987).

ALIMONY: The sole issue on appeal is whether the trial court's award of rehabilitative alimony, amounting to \$100.00 per month for two years was correct. Neither party disputes that Judy should receive alimony to help her obtain marketable skills in the work place. The trial court found that Edward had a monthly gross income of \$2,375 and a net income monthly of \$1,440. Edward was

ordered to pay \$118 per week as child support. Judy argues that Edward's monthly net income will be between \$1,692.00 and \$1,842.00, depending on the number of exemptions he claims. Judy points to bonuses and benefits such as Edward's profit sharing plan, in addition to his regular salary to reason Edward can pay her more alimony per month. When determining the appropriateness of alimony, the court must consider (1) the earning capacity of each party, and (2) their present standards of living and ability to pay balanced against their relative needs. In re Marriage of Estlund, 344 N.W.2d 276, 281 (Iowa App. 1983).(emphasis added) There is no question that Judy is deserving of alimony to help prepare her for the work market. There is in the balance however, a limited ability on the part of Edward to pay the amount arguably necessary to help her. The record indicates that Edward's base income is relatively static with some periodic variation effected by his employer's profits. His long-standing employee relationship indicates this base salary will likely be available to him for some time in the future. We agree with the trial court that Edward can pay monthly alimony in the amount of \$100.00 per month. We find the period of 24 months an insufficient length of time in which to allow Judy to develop and sharpen her skills. We therefore modify the trial court's decree and direct Edward to pay rehabilitative alimony to Judy in the amount of

\$100.00 per month for 60 months. Except as modified we affirm the trial court's decree.

Each party will pay his or her own attorney's fees. Costs are taxed to the appellant.

AFFIRMED AS MODIFIED.