FILED
NOV 30 1983
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF JOSEPH JOHN VUKOVICH AND MARY ABIGAIL VUKOVICH

UPON THE PETITION OF **JOSEPH JOHN VUKOVICH,**	)	Filed November 30, 1983
Petitioner-Appellant,	)	
AND CONCERNING **MARY ABIGAIL VUKOVICH,**	)	3-151 / 2-69147
Respondent-Appellee.	)	

Appeal from Black Hawk District Court, Robert J. Curnan, Judge.

Petitioner-husband appeals from alimony and visitation provisions of the parties' dissolution decree. AFFIRMED.

Frederick G. White and Luann White for petitioner-appellant.

Robert D. Fulton of Fulton, Frerichs, Martin & Andres, P.C., Waterloo, for respondent-appellee.

Heard by Oxberger, C.J., and Donielson, Snell, Schlegel, Hayden, and Sackett, JJ.

OXBERGER, C.J.

Petitioner-husband appeals from alimony and visitation provisions of the parties' dissolution decree, asserting: (1) the court should reconsider or modify the cases eliminating fault as a consideration for purposes of determining alimony; (2) in any event no alimony should have been awarded; (3) he should not have been required to pay transportation and lodging expenses in connection with the wife's exercise of visitation rights twice a year; (4) the wife should not have been permitted to make weekly unsupervised long distance telephone calls of up to fifteen minutes for purposes of visitation; and (5) he should not have been ordered to pay the cost of the wife's long distance visitation telephone calls. Respondent-wife has requested attorney fees on appeal. We affirm.

I. Scope of Review

In equity matters such as this, where our review is de novo, it is our responsibility to review the facts as well as the law and determine from the credible evidence rights anew. In re Marriage of Winegard, 257 N.W.2d 609, 613 (Iowa 1977). We give weight to, but are not bound by, the findings of the trial court. In re Marriage of Steenhoek, 305 N.W.2d 448, 452 (Iowa 1981).

II. Alimony

When determining the appropriateness of alimony, the trial court must consider: (1) the earning capacity of each party, and (2) present standards of living and ability to pay balanced against the needs of the other spouse. In re Marriage of Hitchcock, 309 N.W.2d 432, 437-38 (Iowa 1981). Each case must be decided on its own peculiar set of circumstances and precedent is of no value. In re Marriage of Fleener, 247 N.W.2d 219, 220 (Iowa 1976). Mary Abigail's need of support is evident; Joseph's ability to pay is also evident. We have reviewed the record before us and find no error in the alimony award.

Furthermore, fault is not a factor to be considered in determining an alimony award. In re Marriage of Bevers, 326 N.W.2d 896, 899 (Iowa 1982); In re Marriage of Callenius, 309 N.W.2d 510, 514 (Iowa 1981); In re Zoellner's Marriage, 219 N.W.2d 517, 524 (Iowa 1974); In re Marriage of Williams, 199 N.W.2d 339, 345 (Iowa 1972). We will not reverse, nor will we modify a long line of cases that have held that alimony is to be determined by fairness rather than fault. Williams at 345. The policy reasons behind these holdings are strong. Therefore, we find no merit in this argument.

III. Travel and Telephone Expenses

Joseph argues that it was error for the trial court to order him to pay travel expenses for two visitation trips and telephone expenses for one collect phone call per week. We disagree.

Mental disorder of a noncustodial parent does not necessarily deprive that parent of visitation rights without a showing of potential harm to the child. Lamansky v. Lamansky, 207 N.W.2d 768, 771 (Iowa 1973). Furthermore, it is ordinarily in the best interests of the children to have a continuing association with the noncustodial parent, unless the contrary is shown. Donovan v. Donovan, 212 N.W.2d 451, 453 (Iowa 1973). The record shows that Joseph is more able to sustain these extra expenses than is Mary Abigail. The record also shows that Joseph is willing to have Mary Abigail visit the children in the state where he resides. In a medical report on Mary Abigail, the psychiatrist stated that he knew of no "factor[s] in Mrs. Vukovich's relationship with the children which would in any way be harmful to the children." The report also indicated that contact between Mary Abigail and the children is important.

The trial court has strictly outlined the circumstances that must surround the visitations and safeguards have been mandated. Reports and testimony

indicate that as long as Mary Abigail remains on her medication, her mental disorder can be regulated. Other than Matthew having had problems after Mary Abigail's second episode in 1981, there seems to be no indication that the visits or the phone calls have been detrimental to the children.

Although our review is de novo, the trial court is in the best position to determine when and under what circumstances contact with the children should be permitted. See Lamansky at 772. We find the trial court has carefully and conscientiously ruled in this case. Since there has been no showing of harm to the children or economic inequity to the parties, we must affirm the trial court's decision.

IV. Attorney Fees

Mary Abigail is not entitled to attorneys fees as a matter of right. In re Marriage of Erickson, 228 N.W.2d 57, 59 (Iowa 1975). However, it is proper to require a husband to pay attorney fees for his wife on appeal from a divorce decree. Wilson v. Wilson, 197 N.W.2d 589, 594 (Iowa 1972). Considering the financial conditions of the parties and all the circumstances in this case, we hold Joseph should contribute $500 towards Mary Abigail's attorneys fees.

With the proviso that judgment be rendered against Joseph for $500 for Mary Abigail's attorneys fees, the decree of the trial court is affirmed.

AFFIRMED.