FILED
MAY 31 1978
CLERK SUPREME COURT

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IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF JANET R. BRYANT AND JAMES F. BRYANT

UPON THE PETITION OF
JANET R. BRYANT,

Appellee,

and CONCERNING
JAMES F. BRYANT,

Appellant.

Filed May 31, 1978

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2-60713

Appeal from Dickinson District Court - Richard W. Cooper, Judge.

Appeal from the provisions of a dissolution decree. - Affirmed as modified.

Redge O. Berg, of Berg & Barrick, Spencer, for Appellant.

Leo E. Fitzgibbons, of Fitzgibbons Brothers, Estherville, for Appellee.

Submitted to Allbee, C.J., and Donielson, Snell, Oxberger and Carter, JJ.

PER CURIAM

Respondent James Bryant appeals the economic provisions of the dissolution decree. Our review is de novo. Rule 4, Rules of Appellate Procedure. The standards for reviewing alimony and property settlements are set forth in Schantz v. Schantz, 163 N.W.2d 398, 405 (Iowa 1968) and In re Marriage of Williams, 199 N.W.2d 339, 345-6 (Iowa 1972). Factors to be considered in reviewing child support awards are found in In re Marriage of Zoellner, 219 N.W.2d 517, 525 (Iowa 1974). Each case is particularly dependent upon its own facts and therefore, precedents are of little value. Zoellner, supra; In re Marriage of Romig, 207 N.W.2d 780, 783 (Iowa 1973). While we give weight to the trial court's findings of fact, we are not bound by them. Rule 14(f)(7), R. App. P. See also In re Marriage of Winegard, 257 N.W.2d 609, 613 (Iowa 1977).

The parties had been married almost eighteen years when the dissolution was granted. Custody of the two children born during the life of the marriage, Mark, almost age 14, and Jill, almost age 10 at the time of the decree, was awarded to petitioner Janet Bryant and is not contested on appeal.

At the time of trial James, 39, was a vice-president of Iowa Beef Processors, Inc., with an annual salary of $40,000. His employer also had a history of giving its top executives annual bonuses based upon the existence of corporate profits and the individual's performance throughout the year. Although James had only worked for his current employer one year, the trial court found he could anticipate annual bonuses of around $30,000 based upon the bonus history of James's predecessor. Janet, age 37, was employed as an elementary school teacher. Her current salary at the time of trial was over $9700 and she anticipated a raise of over $1000 for the 1977-78 school year.

Initially, we consider the property settlement and alimony awards. The trial court found the parties' net worth to be over $51,300; of this, the personal property represented $29,300 and the parties had approximately $22,000 equity in their residential condominium. The trial court made an "in kind" division of the personal property, giving both parties an equal amount. It then gave Janet the $22,000 equity in the condominium as partial alimony and permanent alimony of $500 per

month for eight years and $300 per month thereafter until she reaches the age of 62, remarries or dies, whichever first occurs.

Although allocations of support money, alimony and property have a different purpose, they are closely related in determining amounts to be awarded. In re Marriage of Peterson, 227 N.W.2d 139, 142 (Iowa 1975). However, an equal division of property is not required. All that is required is an award which is equitable and just under the circumstances. Locke v. Locke, 246 N.W.2d 246, 251 (Iowa 1976).

Our de novo review and application of the Schantz criteria convinces us that the property settlement and alimony are within the guidelines announced therein. The division of personal property is nearly equal. The permanent monthly alimony of $500 for eight years, reducing thereafter to $300 is modest under these circumstances. The supplementary alimony represented by the condominium equity is appropriate. The trial court specifically gauged its findings on an income to James of $70,000 and if unsupported by subsequent salary and bonus earnings, the trial court stated James may apply for modification.

James also argues the excessiveness of the child support award. The trial court ordered James to pay $600 per month child support for each of his two children while they are under the age of 18. At age 18, the payments are to terminate subject to the trial court's retained right to order additional support should either of the children desire to attend college. See § 598.1, The Code; Locke v. Locke, 246 N.W.2d at 250-1. The child support award is hereby modified to $500 per month per child while both children are under the age of 18. When the oldest is no longer eligible for support, child support is increased to $600 per month.

The trial court found Janet's basic support requirements were $500 per month. The remaining expenses were for the children's housing, food, etc. during their minority. The trial court found "the lifestyle to which the children have become accustomed is far above the average family." In Tallarico v. Tallarico, 164 N.W.2d 805, 808 (Iowa 1969), the supreme court stated:

> It appears from the record that in happier days defendant willingly indulged his family and encouraged them in good living. Since that is the way he accustomed them to live and since he is financially able to maintain that standard, he cannot now insist on a more austere life because of this unfortunate separation."

The final error asserted concerns the award of attorney fees. The trial court awarded Janet $1250 in temporary attorney fees to enable her to prosecute this action. In the decree the trial court awarded an additional $1250 for Janet's attorney. The elements for determining reasonable fees are set out in In re Marriage of Jennerjohn, 203 N.W.2d 237, 245 (Iowa 1972) and In re Marriage of Jayne, 200 N.W.2d 532, 534 (Iowa 1972). The trial court was present and best able to assess the value of the services received. In re Marriage of Willcoxson, 250 N.W.2d 425, 427 (Iowa 1977). We find no error.

Janet also asks for attorney fees on this appeal. Attorney fees on appeal are not awarded as a matter of right. See Winegard, supra at 618; Conkling v. Conkling, 185 N.W.2d 777, 785 (Iowa 1971). While we do not determine the amount to be charged by Janet's attorney, we determine only the amount to be paid by James. James shall pay $1000 towards Janet's attorney fees for this appeal.

AFFIRMED AS MODIFIED.