FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF ALICE KATHLEEN JOHNSON AND RICHARD WILLIAM JOHNSON

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UPON THE PETITION OF	)	
ALICE KATHLEEN JOHNSON,	)	Filed February 24, 1982
Petitioner/Cross-Appellant,	)	
AND CONCERNING,	)	1-451 3-67012
RICHARD WILLIAM JOHNSON,	)	
Respondent-Appellant.	)	

Appeal from Jefferson District Court, James D. Jenkins, Judge.

The respondent-husband appeals and the wife cross-appeals from the decree of dissolution entered by the trial judge. AFFIRMED IN PART, MODIFIED IN PART, AND REVERSED IN PART.

Thomas M. Walter of Barnes & Walter, Ottumwa, for respondent-appellant.

Charles M. Kiple and J. Terrence Denefe of Kiple, Kiple & Denefe, Ottumwa, for petitioner/cross-appellant.

Heard by Oxberger, C.J., and Donielson, Snell, Carter, and Johnson, JJ.

PER CURIAM

The respondent-husband appeals and the wife cross-appeals from the decree of dissolution entered by the trial judge. We affirm in part, modify in part, and reverse in part.

The parties were married on August 3, 1974. They have one son, Eric, born October 5, 1977. The wife is employed as a schoolteacher and earns a gross salary of $13,700. The husband is employed by the Department of Social Services and is also employed as a general relief director for the county. His annual salary is $20,828 gross. The wife filed her petition for dissolution on October 4, 1977. Temporary custody was given to the mother.

I. Custody

The trial judge awarded permanent custody of Eric to the wife. This decision was based on the fact that since the petitioner is a school teacher, she will be working the same hours that Eric is in school. When he has vacation, she will have vacation. The court also thought it was important that the wife's parents would be babysitting Eric if the wife got custody. The court stated that this arrangement was "more natural and less artificial" than the daycare-preschool arrangement which would be provided by the father if he were granted custody.

It appears from the evidence that both parents love Eric very much and would be excellent custodians.

After carefully considering the factors cited in In re Marriage of Winter, 223 N.W.2d 165 (Iowa 1974), we find no reason to change the decision of the trial court, who saw the parties and their witnesses.

II. Visitation.

The trial court found that visitation had been disruptive and restricted visitation to two Sundays per month from 10:00 a.m. to 4:00 p.m., alternating holidays, and two weeks during the summer. This is without support in the

evidence. The respondent-father is extraordinarily devoted to his son. Dr. Jenkins recommended that the temporary visitation schedule be continued and urged the mother to be more flexible about extra visitation. Both parties testified that the visitations were not disruptive and should be continued as they were. Therefore, we modify the trial court decree so that visitation is as the parties agreed: every other weekend from 5:00 p.m. Friday to 5:00 p.m. Sunday; on the weeks that there is no weekend visitation, visitation one evening per week; alternating holidays; and three weeks during the summer. In addition, we do not discourage extra visitation for special occasions such as Father's Day and the father's birthday.

III. Child Support.

The trial judge ordered the father to pay $75 per week child support to age ten and $110 per week thereafter. Temporary child support was set at $45 per week. The wife testified that this amount was adequate. Considering the respective incomes of the parties and the expenses involved, we find that child support should be set at $45 per week. In addition, an automatic cost of living provision as provided in In re Marriage of Stamp, 300 N.W.2d 275, 276 (Iowa 1980), should be included in the decree upon remand.

IV. Attorney Fees.

The trial judge ordered the husband to pay $1200 to the wife's attorney in addition to the temporary attorney fees already paid. We find no abuse of discretion in this award.

V. Issues on Cross-Appeal

The wife on cross-appeal alleges that the trial court erred by failing to continue the child support obligation when Eric attends college. The trial court provided that the wife could seek modification of the decree to extend child support if Eric attends college. This provision was within the trial court's discretion, in view of Eric's young age. See In re Marriage of Vrban, 293 N.W.2d 198, 202 (Iowa 1980).

The wife also argues the court erred in failing to require the husband to maintain health and accident insurance for Eric. Both parties have the opportunity to obtain group rates for the insurance. Because we have reduced the husband's child support obligation, we modify the trial court's decision and order that the husband should be required to continue to maintain the health and accident insurance for Eric that he has been providing through his employer.

The wife also argues the trial court erred by failing to award alimony. We disagree. Kathy is employed in a professional position at an adequate salary. The trial court's denial of alimony was correct.

She next argues that the trial court erred by failing to award her the $4400 she brought into the marriage before dividing the parties' property. Section 598.21(1) states that the court shall divide the property "equitably between the parties after considering . . . b. the property brought to the marriage by each party." The statute does not require the trial court to exclude the property brought into the marriage, only to consider it in making an equitable division. The trial court considered it and decided it would be inequitable to separate the funds. We consider the property division and child support award as a whole and agree that it would be unjust to award the wife $4400 in addition to the property she has already received.

The wife also alleges that her parents provided contributions and loans to the parties during the marriage and that the trial court should have ordered repayment. The trial judge found that the husband should be solely liable for the$1800 car loan, and we affirm that finding. As to the contribution to the house, the judge did not consider this in making a division. It is not clear whether this contribution was a gift to the parties. Therefore, the trial judge was correct in holding that the wife's father must be repaid by both parties only if he establishes the existence of the debt in another action.

All aspects of the trial court's decree not specifically modified or reversed by this opinion are affirmed. The case is remanded to the trial court to enter a

decree in conformity with this opinion.

AFFIRMED IN PART, MODIFIED IN PART, REVERSED IN PART, AND REMANDED.