FILED
FEB 2 3 1989
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE MARRIAGE OF IMOGENE TRIMBLE AND JOHN KENYON TRIMBLE

Upon the Petition of **IMOGENE TRIMBLE,**	)	**455**
Petitioner-Appellee,	)	
And Concerning **JOHN KENYON TRIMBLE,**	)	8-402 / 88-183
Respondent-Appellant.	)	

Appeal from the Iowa District Court for Carroll County (No. 29703), R. K. Richardson, Judge.

Respondent appeals the provisions of the decree of dissolution entered in the district court. **AFFIRMED.**

James R. Van Dyke, of Van Dyke & Werden , P.C., Carroll, for respondent-appellant.

Raymond O. Snook, of Snook Law Office, Glidden, for petitioner-appellee.

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

OXBERGER, C.J.

Respondent-appellant John Kenyon Trimble (Ken) appeals from the property and alimony awards to petitioner-appellee Imogene Trimble (Imogene) in their dissolution decree.

The parties were married in 1978, and the dissolution decree entered January 21, 1988. At the time of trial Imogene was fifty-one and Ken forty-two years of age. Both parties worked during the marriage and at the time of the hearing Ken's annual salary was approximately $30,000 and Imogene's $6,500. Imogene has an eighth grade education and Ken has a high school diploma. No children were born to the parties during this marriage, although Ken had two children and Imogene had three children from previous marriages. Four of the five children lived with the parties at various times during the marriage but none were minors at the time of trial. Imogene brought approximately $59,000 in cash to the marriage. Much of this money was used to buy a car, furniture and make a down payment on a home. During the marriage both parties' earnings and Imogene's children's social security benefits were placed in a joint account. All household expenses and house payments were paid from this account.

The record reveals the property available for disposition at trial was a television set, two cars, and the family home which was subject to a $35,000 mortgage. The trial court awarded Imogene one of the cars free of any

liens, $5,000 as her interest in the home, and $400 a month alimony until she reaches age sixty. Ken argues the trial court erred in not granting his motion for new trial and, alternatively, the award of alimony should be eliminated or reduced.

Our standard of review of dissolution actions is de novo. Iowa R. App. P. 4. We review the facts and the law and determine the parties' rights anew where issues have been properly presented and preserved. Petition of Sturtz, 415 N.W.2d 173, 173 (Iowa App. 1987). Although not bound by the trial court's findings of facts, we give them weight, particularly where the credibility of witnesses is implicated. Id.

Ken's motion for new trial is based primarily on what he believes to be new evidence showing Imogene misled the court regarding cash available to her and the trial court's misunderstanding as to the benefits derived from money Imogene brought to the marriage. The trial court, after considering Ken's motion and supporting affidavit but prior to Imogene's response, entered an order denying the motion for new trial. Whether to hear new evidence or grant a motion for new trial is within the trial court's discretion. In re Marriage of Steenhock, 305 N.W.2d 448 (Iowa 1981). If the motion is based on newly discovered evidence that could not be discovered prior to conclusion of the trial, the moving party must prove the evidence is

material, not merely cumulative or impeaching and will probably change the result if a new trial is granted. Id. We have reviewed the trial record, the decree, and the affidavit attached to the motion. The proffered evidence does not require a new trial under these standards.

Ken argues the trial court's award of alimony was erroneously based on Imogene's injuries of which there is no evidence. While it is true the decree does mention a leg injury in reference to the alimony award, a complete reading of the decree and an independent review of the facts presented support the trial court's alimony award. 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). We have applied the relevant factors of Iowa Code section 598.21(3) (1987) governing alimony awards to this case and find no reason to disturb the trial court's award of alimony in amount or duration.

We find the other property awards to be appropriate also. Imogene cannot afford the house payments. Ken's children still visit the family home when on breaks from college. Imogene made a $24,000 down payment on the home, bought new furniture and a car with money she brought into the marriage which made it possible for Ken and his

children to enjoy a higher standard of living. Each party was awarded a car and agreed to equal distribution of personal property. An equal distribution of the property need not be achieved with mathematical exactness but should be determined on the basis of what is equitable under the circumstances. In re Marriage of Hoak, 364 N.W.2d 185, 194 (Iowa 1985). We affirm the trial court decree in all respects.

Costs of this appeal are taxed to respondent.

AFFIRMED.