FILED
JUN 30 1978
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

DOROTHY E. ELGAS,	)	
Appellee,	)	Filed June 30, 1978
vs.	)	
JAMES J. ELGAS,	)	548 / 2-60926
Appellant.	)	

Appeal from Linn District Court - Robert Ford, Judge.

Respondent husband appeals the alimony and property division provisions of dissolution decree. - Affirmed.

John H. Ehrhart, of Fisher, Yarowsky, Martin & Ehrhart, Cedar Rapids, for Appellant.

Robert C. Nelson, of Ruffin, Nelson, Fassler, Mitchell & Kimm, Cedar Rapids, for Appellee.

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

PER CURIAM

Respondent James J. Elgas appeals the alimony and property division provisions of the decree dissolving his twenty-two year marriage with petitioner Dorothy E. Elgas. We affirm with modification.

James urges this is not a proper case in which to award alimony and further urges this court to consider the employment at $4 per hour of Dorothy after the entry of the decree. We sit in de novo review of the matters brought before the trial court; we may not consider subsequent circumstances. Dorothy at trial was unemployed and only recently recovered from an extended psychiatric hospitalization. Her only employment in previous years had been babysitting. We think the trial court properly concluded she needed alimony in the amount of $250 per month. In re Marriage of Seidenfeld, 241 N.W.2d 881, 884 (Iowa 1976).

We think the trial court in making the property division properly considered the Schantz v. Schantz, 163 N.W.2d 398 (Iowa 1968) criteria as they applied to James and Dorothy. Essentially the trial court gave Dorothy the marital home and furnishings and gave James his business interests. We find such a division justified; accordingly we affirm the trial court.

Attorney fees for this appeal are sought by Dorothy. Such fees are not allowed as a matter of right and any award must depend upon financial circumstances and earnings of both parties. In re Marriage of Peterson, 227 N.W.2d 139, 142 (Iowa 1975). We find that James should pay $600 towards Dorothy's attorney fees. By so doing we do not fix the amount to be charged by Dorothy's attorney; we have only decided what portion James should pay. In re Marriage of Peterson, 227 N.W.2d at 143.

AFFIRMED.

SNELL and OXBERGER, JJ., concur specially.

OXBERGER, J. (specially concurring)

I would award Dorothy $750 for attorney fees on appeal. See In re Marriage of Wahl, 246 N.W.2d 268 (Iowa 1976), In re Marriage of McDowell, 244 N.W.2d 238 (Iowa 1976), and In re Marriage of Youel, 218 N.W.2d 449 (Iowa 1974).

SNELL, J., joins in this special concurrence.