

IN THE COURT OF APPEALS OF IOWA

FILED

JAN 27 1988

CLERK SUPREME COURT

IN RE THE MARRIAGE OF JANET GREISCH AND EDWARD GREISCH

Upon the Petition of)

JANET GREISCH,)

Petitioner-Appellee,)

And Concerning)

EDWARD GREISCH,)

Respondent-Appellant.)

Filed January 27, 1988

7-319
86-31

80

Appeal from the Iowa District Court for Story County (No. DM 1347), M. D.
Seiser, Judge.

Respondent former husband appeals the trial court's ruling on petitioner
former wife's petition for modification of a dissolution decree. **AFFIRMED.**

Edward Greisch, appellant, pro se.

B Joan White of Tysseling & White, Ames, for appellee.

Considered by Oxberger, C.J., and Hayden and Sackett, JJ.

PER CURIAM

81

Edward Greisch appeals the trial court's ruling modifying the parties' dissolution decree. He asserts on appeal: (1) that the trial court erred by not ordering the petitioner, Janet Greisch, to undergo a psychiatric examination; (2) that the trial court erred in ordering him to make child support payments; and (3) that the trial court was prejudiced against men. Also pending on this appeal are Edward's motion requesting Janet to undergo psychiatric examination and Janet's request for appellate fees. We affirm.

Our review of this matter is de novo. Iowa R. App. P. 4. We give weight to the trial court's findings of fact, especially where the credibility of witnesses is involved, but are not bound by them. Iowa R. App. P. 14(f)(7).

Edward contends the court should have ordered Janet to undergo a psychiatric evaluation. We will also consider Edward's latest motion regarding this matter.

The trial court has discretion under Iowa Rule of Civil Procedure 132 to order a party to submit to a mental examination. McQuillen v. City of Sioux City, 306 N.W.2d 789, 790 (Iowa 1981). The court's decision will not be overturned unless an abuse of discretion is shown. Id.; In re Marriage of Wagner, 272 N.W.2d 418, 421 (Iowa 1978).

Two elements must be established to warrant an order for examination. First, the mental or physical condition of a party must be "in controversy." McQuillen, 306 N.W.2d at 790. Second, "good cause" must be shown. Id. at 791. Edward has placed Janet's mental condition in controversy, but he failed to show good cause for an examination. He did not present any evidence showing that Janet would be harmful to the children in any way. The trial court did not err in denying the motion. By the same token, Edward's pending motion is also denied.

Edward's second contention is that the trial court erred in ordering him to pay child support. He argues the child support issue was not properly before

the court. The trial court ordered Edward to pay support in the amount of \$400 per month.

Prior to Janet's petitioning for modification, Edward, pursuant to the dissolution decree, was not paying any child support. He was unemployed at the time and Janet was awarded the family residence in lieu of support payments for five years. Edward is now gainfully employed and earns \$34,700 a year. He has no dependents. Janet's monthly expenses exceed her income.

Janet's petition for modification asked specifically for a child support award. The issue, therefore, was properly before the court. We now examine the merits of the court's award.

The trial court ordered Edward to pay \$400 per month. Edward did not file a financial affidavit and the court determined its award, after finding a substantial change in circumstances, on the child support guidelines issued by the Judicial Council in October of 1985. Based on these guidelines, \$400 per month was the suggested amount for a noncustodial parent with Edward's income.

We agree with the trial court's award. However, we do not approve the use of the guidelines in determining permanent child support. The guidelines are limited to temporary child support situations. Edward is now employed and earning \$34,700 a year. He has no other dependents to support. He has an obligation to support his children, and we find the child support award made by the court to be appropriate and will not disturb it.

Edward also complains he should not have to contribute towards Janet's attorney fees. This case has been prolonged by Edward's actions. Several additional hearings were required to resolve Edward's many filings. Edward was also found in contempt and attempted to harass Janet and her potential witnesses. Clearly, his actions extended the resolution of this matter and the trial court was correct in ordering him to pay a portion of Janet's fees.

Janet has asked for appellate attorney fees as well. These awards are based on the respective parties' ability to pay. In re Marriage of Butler, 346 N W 2d 45, 47 (Iowa App. 1984). We have examined the parties' ability to pay and order Edward to pay \$500.00 toward Janet's appellate fees. He is also ordered to pay the costs of this action.

We now address Edward's final contention. He contends the trial court was prejudiced against men. He argues the court granted Janet privileges that were denied to him.

We agree with Edward that gender bias should be eliminated from our judicial system. Each case should be decided on its particular merits, not on gender bias and sexual stereotyping. We have reviewed the incidents in question and conclude there was no prejudice on the part of the trial court. Many of the problems relate to Edward's unfamiliarity with court procedures. We also note the trial court made every accommodation possible to Edward since he chose to represent himself. Based on the record, we find there was no prejudice on the part of the court and affirm its ruling in all respects.

AFFIRMED.