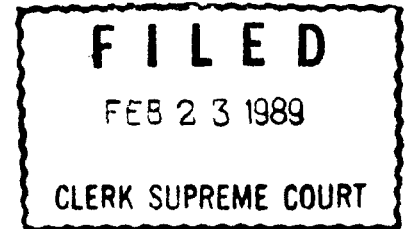


IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF
LEANN SCHNACK AND GAIL SCHNACK



Upon the Petition of)
LEANN SCHNACK,)
 Petitioner-Appellee,)
And Concerning)
GAIL SCHNACK,)
 Respondent-Appellant.)

361

9-32
88-977

Appeal from the Iowa District Court for Shelby County
(DD654), J.C. Irvin, Judge.

Respondent-husband appeals from a dissolution decree,
challenging economic provisions. **AFFIRMED AS MODIFIED.**

Jeffrey L. Larson and Michael P. Childs of Larson,
Childs & Hall, Harlan, for respondent-appellant.

Paul A. Zoss and Burns H. Davison III of Adams, Howe &
Zoss, Des Moines, for petitioner-appellee.

Considered by Schlegel, P.J., and Hayden and Habhab,
JJ.

SCHLEGEL, P.J

Respondent husband Gail Schnack appeals certain economic provisions of the decree of dissolution entered for the parties on May 31, 1988. He claims that the trial court abused its discretion in awarding \$600 per month in alimony to petitioner wife LeAnn Schnack and that the trial court erred in not requiring LeAnn to pay a credit card debt. We affirm as modified.

Our review of this equity action is de novo. Iowa R. App. P. 4. We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses, but we are not bound by them. Iowa R. App. P. 14(f)(7).

Gail and LeAnn Schnack were married on September 16, 1954, and had been married for 32 years at the time of trial. Three children were born of the marriage, all of whom are now adults. Both parties are in their early to mid-fifties and both have completed high school. Gail operated a service station during the early years of the marriage, but since 1965 he has been employed as a salesman for an electrical supply company, earning a net salary of \$1,350 per month. LeAnn had not been employed outside the home for eighteen years prior to the parties' separation.

Prior to trial, the parties stipulated to the division of most of their assets and many of their debts. With the exception of the court's alimony award, the division of property and debts is not controverted in this appeal.

Gail challenges the court's alimony award of \$600 per month to LeAnn as excessive. He claims that the trial court was in error in making this award, as the parties had allegedly made a pretrial agreement that Gail would pay LeAnn \$250 per month in alimony.

The criteria for granting alimony are codified in Iowa Code section 598.21(3). When determining the appropriateness of alimony, the trial court must consider: (1) the earning capacity of each party; and (2) present standards of living and ability to pay balanced against relative needs of the other. In re Marriage of Hitchcock, 309 N.W.2d 432, 436-37 (Iowa 1981). In the case at bar, LeAnn, 51 at the time of trial, has only a high school education and has no special training or skills. During the majority of the parties' 32-year marriage she devoted her time to caring for the home and the parties' three children. She testified at trial that she has been looking for employment but was unsuccessful and would like to develop new secretarial and bookkeeping skills with further training. Upon consideration of these facts, the trial court awarded her \$600 a month for five years. We find no error in this determination, which allows LeAnn to maintain a respectable standard of living, develop new skills, and secure full time employment. See In re Marriage of Butler, 346 N.W.2d 45, 47 (Iowa App. 1984); see also In re Marriage of Bevers, 326 N.W.2d 896, 900 (Iowa 1982). In reaching

this conclusion, we find Gail's claim that the parties agreed upon \$250 a month in alimony payments to be unsupported by the record and without merit.

Gail further contends that the trial court erred in requiring him to assume the Sears credit card debt. LeAnn concedes in her brief that the parties had agreed prior to trial that she would assume this particular debt, and she remains willing to do so. Although the trial court has the discretion to disregard the stipulations and agreements of the parties, see Bamesberger v. Bamesberger, 28 N.W.2d 28, 31 (Iowa 1947), we believe that it would be more equitable for LeAnn to assume this debt, as Gail made no charges on this account. We therefore modify the court's decree to require that LeAnn be responsible for the Sears credit card debt.

LeAnn requests attorney's fees on appeal. In a dissolution action, attorney's fees are not awarded as a matter of right, and such an award may be granted depending upon the parties' respective abilities to pay. In re Marriage of Willcoxson, 250 N.W.2d 425, 427 (Iowa 1977). Considering the respective financial conditions of both parties, we order Gail to pay \$500 towards LeAnn's attorney's fees on appeal. Costs are assessed to each respective party as incurred.

AFFIRMED AS MODIFIED.