FILED
AUG 30 1990
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 0-284 / 89-1599

IN RE THE MARRIAGE OF KRISTY S. WALL and EUGENE D. WALL

Upon the Petition of

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KRISTY S. WALL,

Appellant/Cross-Appellee,

And Concerning

EUGENE D. WALL,

Appellee/Cross-Appellant.

Appeal from the Iowa District Court for Scott County, J.L. Burns, Judge.

Wife appeals a dissolution decree, and the husband cross-appeals. **AFFIRMED.**

Daniel L. Bray, Iowa City, for appellant.

Harold J. DeLange II, Davenport, for appellee.

Heard by Oxberger, C.J., and Hayden and Habhab, JJ.

OXBERGER, C.J.

Eugene and Kristy Wall were married in 1976, when Eugene was twenty-six years old and Kristy was eighteen years old. They have two children, boys born in June 1978 and May 1983.

Eugene, thirty-eight years old at trial time, is a police officer for the City of Davenport. He also works twelve hours per week as a part-time private security guard. His net income is slightly over $500 per week.

Kristy, thirty years old at trial time, is employed as a bookkeeper and manager for a closely-held family farm corporation. The stockholders of the corporation are Kristy's relatives; she owns about thirty percent of the stock, which she received as gifts from her parents. She receives both employment income and ownership income from the corporation, and it is apparently difficult to distinguish the two. In 1988 her adjusted gross income was $35,808, but she testified some of this was carry-over from prior years. The district court concluded her income is at least $20,000 per year.

The dissolution decree placed the two children in joint legal custody and in Eugene's primary physical care. The district court commented that the choice of a primary caretaker was difficult because both parties were good parents.

The district court declined to specify Kristy's minimum visitation. Instead, the court expressed the hope that the parties could cooperate to determine visitation.

The district court directed Kristy to pay Eugene child support of $90 per week while both children are eligible and $65 per week when only one child remains eligible.

The district court set aside to Kristy, as her separate property, the assets she had received as gifts or inheritances before or during the marriage. These assets include her stock in the family farm corporation and an interest in a Florida condominium. These assets were difficult to value, and the district court did not make a finding as to their worth. There was evidence that the value of these assets is, at the least, in excess of $100,000; Eugene argues the assets in question are worth over $300,000.

The district court awarded Eugene the marital residence, which was valued at $89,900 but was subject to a debt of $55,200. The court awarded Kristy two rental houses owned by the parties; one was valued at $75,500 but was subject to a debt of $34,000, while the other was valued at $21,000 to $27,000 but was subject to a debt of $5,400. Each party received various vehicles, home furnishings, personal effects, life insurance policies, and small bank accounts.

The district court declined to award alimony or attorney's fees to either party.

Kristy has appealed from the dissolution decree, and Eugene has cross-appealed.

Kristy contends the children should be placed in her physical care rather than Eugene's physical care. She asserts that Eugene physically abused her on numerous occasions during the marriage, that he is prone to violent displays of temper, and that he would be rigid and authoritarian with the children. She also asserts that she was the children's primary caretaker during the marriage and Eugene has limited experience with the details of child care.

Kristy also contends the district court should have established a specific visitation schedule. If the appellate court leaves the children in Eugene's physical care, she asks the appellate court to establish a specific visitation schedule.

Finally, in the event the children are transferred to her physical care on appeal, Kristy asks that Eugene be directed to pay her child support.

In his cross-appeal, Eugene contends he should have been awarded more child support and more property. He also contends the district court should have awarded him trial attorney's fees.

Both parties request attorney's fees on appeal.

Our review of this case is de novo. Iowa R. App. P. 4. We give due weight to the findings of the trial court, but

are not bound by them. Iowa R. App. P. 14(f)(7). The best interests of the children is our controlling concern. Iowa R. App. P. 14(f)(15). Each case must be determined on its own facts to decide which parent could administer more effectively to the long-range best interests of the children. In re Marriage of Bowen, 219 N.W.2d 683 (Iowa 1974). The factors considered in awarding custody are enumerated in Iowa Code section 598.41(3), in In re Marriage of Weider, 338 N.W.2d 351, 356 (Iowa 1983), and in In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974).

The evidence is conflicting in this case. Each party accuses the other of various types of abuses and misconduct. Each denies the other's allegations. Neither appears to be unfit to be the custodial parent for the children. The trial court found Eugene would be the parent best suited to care for the children. As the trial court was present and could view the witnesses, we give weight to its decision. Iowa R. App. P. 14(f)(7). Nothing in the record convinces us the trial court was wrong in its custody award. We affirm the award of custody to Eugene.

The parties also object to the property division. The partners in a marriage are "entitled to a just and equitable share of the property accumulated through their joint efforts." In re Marriage of Havran, 406 N.W.2d 450, 452 (Iowa App. 1987). The distribution of property should be that which is equitable under the circumstances after

consideration of the criteria outlined in Iowa Code section 598.21(1). In re Marriage of Estlund, 344 N.W.2d 276, 280 (Iowa App. 1983). Specifically, Eugene asserts Kristy's assets were undervalued. The trial judge made the division based on the evidence presented. The division was equitable. We see no reason to disturb the property division on appeal.

The award of child support falls within the parameters of the permanent child support guidelines as promulgated by the Iowa Supreme Court, effective October 12, 1989. The trial court found about $20,000 per year income for Kristy, and slightly more than that for Eugene. The guidelines mandate 24.2 percent of the noncustodial spouse's income be child support in such a situation. The award of $90 per week approximates this mandate.

We see no reason to disturb the trial court's decision on visitation or attorney fees. Visitation is a subject the parties should work out in accordance with the trial court's order.

We affirm the trial court's findings, conclusions, and order in its entirety.

Appellant Kristy is to pay costs of the appeal.

AFFIRMED.