IN THE COURT OF APPEALS OF IOWA

No. 2-082 / 91-770

FILED
AUG 27 1992
CLERK SUPREME COURT

IN RE THE MARRIAGE OF GARY W. BARCUS AND CAROL A. BARCUS

Upon the Petition of

GARY W. BARCUS,

Petitioner-Appellant,

And Concerning

CAROL A. BARCUS,

Respondent,

SUSAN DIANA BARCUS and **DAVID BARCUS,**

Appellees.

Appeal from the Iowa District Court for Keokuk County, James D. Jenkins, Judge.

The father has appealed a district court order modifying a dissolution decree to increase his child support obligation. **AFFIRMED AS MODIFIED AND REMANDED.**

Michael R. Brown of Morrissey & Brown, Fairfield, for appellant.

Michael P. Brice, Oskaloosa, and Robert W. Conrad, Knoxville, for appellees.

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

OXBERGER, C.J.

Gary and Carol Barcus were married in 1968. They had three children. The oldest child, Debra, is an adult. Susan Diana was born on August 18, 1972, and David was born on April 3, 1975.

Gary and Carol were divorced in January 1976. Carol was granted physical care of the children. Gary was ordered to pay child support of $10 per week per child, which was about $130 per month for the three children. In September 1989 his child support obligation was increased to $90 per month per child.

Gary remarried and has four children with his present wife. He is the sole support of this wife and the four children. Carol died in February 1989. Susan and David decided not to live with Gary, but moved in with other relatives.

On July 30, 1990, Susan and David filed a petition for modification seeking an increase in Gary's child support obligation. The children also sought a provision for their posthigh school education expenses. Susan was enrolled to begin classes at Indian Hills Community College in August 1991.

The parties stipulated to certain facts. They agreed there had been a substantial change in circumstances since the time of the dissolution. They also stipulated that Gary's net income was $3,185 per month. Gary agreed to a retroactive increase of child support in the amount of

$4,800, payable at the rate of $200 per month. Gary also agreed to pay $750 toward the children's attorney fees.

The district court issued its decision on April 15, 1991. The court applied the child support guidelines for two children and determined Gary should pay $1,184 per month until Susan becomes twenty-two years of age or is no longer attending an accredited school. The court ordered that when Gary is no longer responsible for the support of Susan, his child support obligation will decrease to $822 per month. Gary is required to pay $822 per month for the support of David until he turns eighteen, or if he decides to continue his education, until he turns twenty-two or is no longer attending an accredited school. Gary has appealed.

Our scope of review in dissolution cases is de novo. In re Marriage of Craig, 462 N.W.2d 692, 693 (Iowa App. 1990). While not bound by the trial court's determination of factual findings, we will give them considerable weight, especially when considering the credibility of witnesses. Id.

We first note that the child support guidelines are not applicable to determine support for an unmarried adult child under twenty-two years of age who is a student. In re Marriage of Lindberg, 462 N.W.2d 698, 701 (Iowa App. 1990). Susan was over the age of eighteen at the time of the modification hearing, and thus the child support guidelines should not be used to determine Gary's support obligation for Susan.

Clearly, under Iowa Code section 598.1(2), Gary may be required to contribute to Susan's support while she is attending college. See In re Marriage of Richards, 439 N.W.2d 876, 879 (Iowa App. 1989). The statute allows the trial court, in its discretion, to award support of a child through college under the proper circumstances. In re Marriage of Lieberman, 426 N.W.2d 683, 685 (Iowa App. 1988).

We determine Gary's obligation should be limited to the cost of attending a state supported university in Iowa. See In re Marriage of Boehlje, 443 N.W.2d 81, 84 (Iowa App. 1989); In re Marriage of Richards, 439 N.W.2d 876, 879 (Iowa App. 1989); Lieberman, 426 N.W.2d at 686. Susan's educational expenses should be considered to include the costs of her tuition, books, laboratory costs, and room and board. See In re Marriage of Frink, 409 N.W.2d 477, 481 (Iowa App. 1987). The total cost to Gary shall be figured after subtracting any loans or scholarships obtained by Susan.

We remand to the district court for a hearing concerning Susan's expected expenses for attending college. The court may then order Gary to pay an appropriate amount of Susan's college expenses, as long as she qualifies for support under section 598.1(2). We do not retain jurisdiction.

Turning then to Gary's support obligation for David, we find the child support guidelines chart for one child

should be applied. As noted in the case of In re Marriage of Ladely, 469 N.W.2d 663, 665 (Iowa 1991), a deviation from the child support guidelines is not warranted where a noncustodial parent has a second family. Under the guidelines, Gary must pay $822 per month for the support of David until he becomes eighteen years of age.

If David decides to seek a posthigh school education, Gary's support obligation for David should be determined using the factors discussed above.

AFFIRMED AS MODIFIED AND REMANDED.