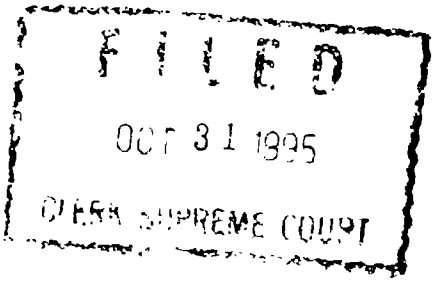
IN THE COURT OF APPEALS OF IOWA



No 5-242 / 94-1638

IN RE THE MARRIAGE OF CINDY L. MELICHAR AND GEORGE A. MELICHAR

Upon the Petition of
CINDY L. MELICHAR,

Appellant,

And Concerning
GEORGE A. MELICHAR,

Appellee.

Appeal from the Iowa District Court for Monroe County, Daniel F. Morrison, Judge.

Cindy Melichar appeals a ruling ordering her to deliver certain items of personal property to George Melichar pursuant to the provisions of the parties' dissolution decree. **AFFIRMED.**

John a. Pabst of Pabst Law Firm, Albia, for appellant.

Janice Patterson, Cedar Rapids, until her withdrawal, and George A. Melichar, Marion, pro se

Considered by Donielson, C.J., and Cady and Huitink, JJ.

HUITINK, J.

Cindy Melichar appeals the district court's order requiring her to deliver specified personal property to George Melichar We affirm

This marriage was dissolved in May 1994 The decree made the following provision regarding the Melichars' personal property:

> 8. Personal Property. All personal property including dishes, silverware, pots, pans, towels, mattresses, frames, etc., shall be divided equally between the Petitioner and the Respondent.

In June 1994 George initiated contempt proceedings alleging Cindy's willful failure to comply with the district court's order to equally divide their personal property. George's application for contempt also contained the following request:

> 7. Respondent respectfully states that the court should order some method of an equal division of this personal property either by sale of all personal property in possession of either or both parties or an opportunity for the Respondent to make the first selection of such property.

The district court, after a hearing, denied George's request to cite Cindy for contempt. The district court, however, granted George's request for a more specific method of dividing the disputed personal property. The district court's order provided:

> This Court incorrectly assumed that the parties could divide the personal property equally. The parties sold a great deal of property at auction, so the Court assumed two adults could divide the remaining. That not being the case, IT IS SO ORDERED that the Petitioner shall deliver to the Respondent the items listed on Exhibit "B" that are highlighted in green.**** In addition to the items on the list, Petitioner shall provide a matching set of dishes (setting of 8) and glasses (3) to Respondent.

> Petitioner shall deliver all items in the condition that they were at the time of the hearing.

The supreme court ordered Cindy's petition for a writ of certiorari challenging this order heard as an appeal. On appeal Cindy argues the district court lacked subject matter jurisdiction and authority to modify the decree by ordering her to deliver specified personal property as a part of its disposition of George's contempt application.

Our review of this equitable proceeding is de novo. Iowa R. App. 4. We give weight to the district court's findings of fact, but we are not bound by them. Iowa R App. P. 14(f)(7).

Subject matter jurisdiction refers to the authority of the court to hear and determine cases of the general class to which the proceedings in question belong, not merely the particular case then occupying the court's attention. *Christie v. Rolscreen*, 448 N.W 2d 445, 450 (Iowa 1989). Iowa district courts have jurisdiction to hear dissolution cases generally. *See* Iowa Code § 598.2. Contempt proceedings in a dissolution of marriage case are merely an adjunct to the original case, *not an independent action*. *In re Marriage of Ratke*, 521 N.W.2d 749, 750 (Iowa 1994) (emphasis added).

Dissolution courts are courts of equity. *In re Marriage of Vrban*, 359 N.W.2d 420, 423 (Iowa 1994). A court sitting in equity has the inherent power and flexibility

to impose equitable terms it deems necessary to enforce its equitable decrees *In re Marriage of* Zeliadt, 390 N.W.2d 117, 120 (Iowa 1987) (citing *Farmer's Savings Bank v. Gerhart*, 372 N.W.2d 238, 245 (Iowa 1985)).

The court, however, is not free to disregard substantive and procedural due process requirements in the exercise of its equitable enforcement authority. *Gilliam v. Gilliam*, 258 N.W.2d 155, 156 (Iowa 1977) (citing *Roach v. Oliver*, 215 Iowa 800, 804-05, 244 N.W. 899, 901-02 (1932)). A contempt proceeding may not be converted to a modification proceeding if the issue of modification has not been properly raised and litigated. *Id.*

We conclude the district court possessed the necessary subject matter jurisdiction and authority to hear and determine the issues raised by George's contempt application. The allegations made and the relief requested implicated the district court's jurisdiction to hear dissolution cases generally and related contempt proceedings to enforce its decree.

We also disagree with Cindy's characterization of the district court's disposition of George's contempt application. Contrary to her assertion, we do not believe the district court modified its earlier decree. The decree provided for an equal division of personal property. There is no indication that the district court's subsequent specification of the personal property awarded to each party altered or modified the

equal property division provided in the decree The district court acted well within its inherent power to enforce the personal property division ordered in its initial decree

The judgment of the district court is affirmed.

AFFIRMED.