

IN THE COURT OF APPEALS OF IOWA

No. 18-1213
Filed July 3, 2019

**IN RE THE MARRIAGE OF KARI TIMMONS
AND MATTHEW TIMMONS**

**Upon the Petition of
KARI TIMMONS,**
Petitioner-Appellee,

**And Concerning
MATTHEW TIMMONS,**
Respondent-Appellant.

Appeal from the Iowa District Court for Clarke County, Richard B. Clogg,
Judge.

Matthew Timmons appeals the denial of his petition to modify the child- and
spousal-support provisions of a dissolution-of-marriage decree and the award of
attorney fees to Kari Timmons. **AFFIRMED AND REMANDED.**

Cathleen J. Siebrecht of Siebrecht Law Firm, Des Moines, for appellant.

Christopher R. Kemp of Kemp & Sease, Des Moines, for appellee.

Considered by Mullins, P.J., Bower, J., and Vogel, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2019).

MULLINS, Presiding Judge.

Matthew Timmons appeals the denial of his petition to modify the child- and spousal-support provisions of a dissolution-of-marriage decree and the award of attorney fees to Kari Timmons. On our de novo review, we conclude the questions presented are not of sufficient importance to justify an opinion, an opinion would not have precedential value, and the judgment of the district court is correct. We therefore affirm the district court without opinion. See Iowa R. App. P. 6.1203(a).

As the prevailing party, Kari requests an award of appellate attorney fees. See Iowa Code § 598.36 (2018); *Schaffer v. Frank Moyer Constr. Inc.*, 628 N.W.2d 11, 23 (Iowa 2001) (holding that a statute allowing an award of trial attorney fees permits an award of appellate attorney fees as well). An award of appellate attorney fees is not a matter of right but rests within this court's discretion. *In re Marriage of Berning*, 745 N.W.2d 90, 94 (Iowa Ct. App. 2007). In determining whether to award attorney fees, we consider the needs of the party making the request, the ability of the other party to pay, and whether the party making the request was obligated to defend the district court's decision on appeal. *Id.* Kari has not provided an affidavit of attorney fees to support her request and we are therefore unable to determine what amount is reasonable. Nevertheless, considering the relevant factors as applied to this case, we find an award of appellate attorney fees to Kari is appropriate. We accordingly remand the case to the district court to determine the reasonable amount of appellate attorney fees to be paid by Matthew to Kari, not to exceed the \$2000 she requested in her brief, and to enter judgment against Matthew and in favor of Kari in that amount.

AFFIRMED AND REMANDED.