

**IN THE COURT OF APPEALS OF IOWA**

No. 2-489 / 11-0649  
Filed June 27, 2012

**IN RE THE MARRIAGE OF JODIE MARIE KELLEY  
AND COLLIN NEIL KELLEY**

**Upon the Petition of**

**JODIE MARIE KELLEY,**  
Petitioner-Appellee,

**And Concerning**

**COLLIN NEIL KELLEY,**  
Respondent-Appellant.

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Appeal from the Iowa District Court for Dubuque County, Thomas A. Bitter, Judge.

Collin Neil Kelley appeals from the district court decree dissolving his marriage to Jodie Marie Kelley. **AFFIRMED.**

Collin Neil Kelley, Dubuque, appellant pro se.

Jodie Marie Kelley, Dubuque, appellee pro se.

Considered by Eisenhauer, C.J., and Potterfield and Mullins, JJ.

**MULLINS, J.**

On November 22, 2010, Jodie Kelley filed a petition for dissolution of marriage from Collin Kelley. The petition came to a trial on April 12, 2011, where both parties represented themselves pro se. Following the trial, the district court entered an order dissolving their marriage. The court awarded the parties all assets presently in their possession, made them solely responsible for the debts incurred since the date of separation, and denied spousal support to either party.

Collin appeals. He claims Jodie committed perjury when testifying about a glass hutch. He further claims the district court erred by not equally dividing an outstanding credit card bill and by not awarding him spousal support. Our review is de novo. *In re Marriage of Morris*, 810 N.W.2d 880, 885 (Iowa 2012).

Collin first argues Jodie committed perjury when she told the district court she had no other furniture besides a queen bed, a couch, and a television; but, later admitted upon questioning from him that she also had a glass hutch. We find that Collin has failed to prove Jodie knowingly made a false statement regarding the hutch. See Iowa Code § 720.2 (2009) (setting forth perjury). Nonetheless, even if she did, she retracted the false statement in the course of the proceeding when she admitted that she continued to possess the hutch. *Id.*; *State v. Hawkins*, 620 N.W.2d 256, 260 (Iowa 2000) (“The essential purpose of a retraction or recantation defense is to encourage a perjurer to set the record straight, that is, to reveal the truth.”).

Collin also argues the district court erred in not ordering an equal division of an outstanding credit card bill. On his financial affidavit, Collin claimed \$2000

in credit card debt. Collin testified that the debt was incurred so long ago he could not remember what was purchased, but that it was approximately \$150 and the interest has caused the debt to increase to \$2000. Collin testified that he has not made any payments on the credit card in the last two years. Outside of his testimony, Collin presented no evidence of actual debt. We find the alleged credit card debt was too speculative to make a division of that debt in the dissolution decree. We affirm the division of property and debts as set forth by the district court.

Collin further argues he should have been awarded spousal support. Collin and Jodie were married in September 1997, and had no children together. At the time of trial Collin was fifty-one years old, while Jodie was forty-five. Collin was incarcerated, which resulted in him no longer having his apartment or possessions, and no longer receiving disability payments of \$776 per month. Jodie was employed as a waitress earning about seventy-five dollars per day working four days a week. Jodie only works nine months a year because the restaurant closes for January, February, and March. Jodie rents an apartment for \$295 per month. Under these circumstances, we conclude the district court's refusal to order spousal support to Collin does not fail to do equity between the parties. See Iowa Code § 598.21A(1); *In re Marriage of Anliker*, 694 N.W.2d 535, 540 (Iowa 2005).

For these reasons, we affirm the decree of the district court dissolving Collin and Jodie's marriage.

**AFFIRMED.**