

IN THE COURT OF APPEALS OF IOWA

No. 3-069 / 12-1128
Filed April 10, 2013

**IN RE THE MARRIAGE OF DENNIS E. VOGEL
AND CHRISTINE S. VOGEL**

**Upon the Petition of
DENNIS E. VOGEL,**
Petitioner-Appellee,

**And Concerning
CHRISTINE S. VOGEL,**
Respondent-Appellant.

Appeal from the Iowa District Court for Linn County, Mitchell E. Turner,
Judge.

Christine Vogel appeals from the spousal support provision of the district
court's order dissolving her marriage to Dennis Vogel. **AFFIRMED.**

Angela M. Railsback of Railsback Law Office, Cedar Rapids, for appellant.

Mark Rettig of Day, Rettig & Pfeiffer, P.C., Cedar Rapids, for appellee.

Considered by Vaitheswaran, P.J., and Tabor and Mullins, JJ.

MULLINS, J.

Christine Vogel appeals from the spousal support provision of the decree dissolving her nine-year marriage to Dennis Vogel. The district court awarded her rehabilitative spousal support of \$500 per month for thirty months. She asserts the spousal support award should have been in a greater amount and for a longer duration, and that the trial court should have awarded her attorney fees. We affirm.

Christine and Dennis married in October 2002. They each have adult children from prior marriages but have no children together. Dennis has been employed at Quaker Oats for approximately thirty-nine years. He makes over \$70,000 per year. Christine has largely been a homemaker and stay-at-home mother, and does not have a high school diploma or GED. She is currently living in South Dakota and has obtained various part-time and seasonal jobs at a state park which earn her less than \$15,000 per year.

We review dissolution proceedings de novo. Iowa R. App. P. 6.907; *In re Marriage of Becker*, 756 N.W.2d 822, 824–25 (Iowa 2008). We give weight to the factual findings of the district court, especially when considering the credibility of witnesses, but are not bound by them. Iowa R. App. P. 6.904(3)(g). “Although our review of the trial court’s award is de novo, we accord the trial court considerable latitude in making this determination and will disturb the ruling only when there has been a failure to do equity.” *In re Marriage of Benson*, 545 N.W.2d 252, 257 (Iowa 1996).

An award of spousal support depends on the circumstances of a particular case. *Becker*, 756 N.W.2d at 825. “Because self-sufficiency is the goal of rehabilitative alimony, the duration of such an award may be limited or extended depending on the realistic needs of the economically dependent spouse, tempered by the goal of facilitating the economic independence of the ex-spouses.” *In re Marriage of Francis*, 442 N.W.2d 59, 64 (Iowa 1989).

Upon a review of the evidence presented to the district court, we note the property division in this case was equitable in light of the parties’ circumstances. This is important because one factor we consider in reviewing an award of spousal support is the property division. See *In re Marriage of Griffin*, 356 N.W.2d 606, 608 (Iowa Ct. App. 1984). The district court observed that Christine presented herself at trial as an articulate and intelligent woman with skills in the areas of park management and wildlife habitat. The district court concluded, and we agree, that Christine will be able to become self-supporting within a reasonably short period of time.

An award of spousal support is a balancing of the equities. *In re Marriage of Clinton*, 579 N.W.2d 835, 839 (Iowa Ct. App. 1998). We conclude the district court properly balanced the equities at issue in this case in making its spousal support award. For the above reasons we decline to modify the spousal support award in either amount or duration.

Christine appeals the trial court’s denial of her request for attorney fees. “Ordinarily an award of attorney’s fees rests in the sound discretion of the trial court and will not be disturbed on appeal in the absence of an abuse of

discretion.” *In re Marriage of Wessels*, 542 N.W.2d 486, 491 (Iowa 1995). “[A]n award of attorney’s fees depends upon the ability of the respective parties to pay, depending upon the financial circumstances and earnings of each.” *Id.* We find no abuse of discretion here.

Considering the results obtained in this appeal, and adopting the reasoning of the trial court in its attorney fee decision, we decline Christine’s request to award appellate attorney fees. *See, e.g., In re Marriage of Cooper*, 524 N.W.2d 204, 207 (Iowa Ct. App. 1994).

We affirm pursuant to Iowa Court Rule 21.29(1)(a) and (d).

AFFIRMED.