

**IN THE COURT OF APPEALS OF IOWA**

No. 9-441 / 08-1515

Filed July 22, 2009

**IN RE THE MARRIAGE OF PATRICIA K. RUBENDALL  
AND LONNIE L. RUBENDALL**

**Upon the Petition of  
PATRICIA K. RUBENDALL,**  
Petitioner-Appellant,

**And Concerning  
LONNIE L. RUBENDALL,**  
Respondent-Appellee.

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Appeal from the Iowa District Court for Sac County, Kurt L. Wilke, Judge.

Patricia Rubendall appeals from the economic provisions of the decree dissolving her marriage to Lonnie Rubendall. **AFFIRMED.**

James R. Van Dyke of Van Dyke & Werden, P.L.C., Carroll, for appellant.

Julie A. Schumacher of Mundt, Franck & Schumacher, Denison, for appellee.

Considered by Vaitheswaran, P.J., and Potterfield and Doyle, JJ.

**VAITHESWARAN, P.J.**

Patricia and Lonnie Rubendall married in 1971 and divorced in 2008. The district court awarded each party approximately half of their \$369,188 in assets. The court awarded Patricia spousal support of \$700 per month, to continue until Patricia dies or remarries.

On appeal, Patricia seeks an increase in the amount of spousal support to \$1000 per month and seeks to have Lonnie pay her medical insurance premiums of \$273 per month.

Several factors are relevant to determining spousal support, including the length of the marriage, the age and health of the parties, the distribution of property, the earning capacity of the party seeking support, and the ability of the party seeking support to become self-supporting at a standard comparable to the standard enjoyed during the marriage. Iowa Code § 598.21A(1)(a)-(c), (e), (f) (2007).

The marriage lasted thirty-seven years. Both parties were fifty-nine years old at the time of trial and both had non-debilitating health issues. The property distribution included an equal division of the profit from the sale of one of the parties' homes, valued at \$150,000. Patricia was also awarded (1) over \$18,000 from a savings plan, (2) one-half the proceeds of the sale of the parties' ranch if sold or \$12,500 if kept by Lonnie, (3) one-half the proceeds from the sale of farm machinery valued at \$40,000 or more, and (4) an unencumbered residence. As for the parties' earning capacities, both had about a thirty-year work history. While Patricia's average salary over a four-year period was only \$10,277 relative to Lonnie's average salary of \$46,162, Lonnie's income was slated to decrease

as early as March 2009 on his retirement. Specifically, he had the option of receiving 56.25% of his highest three-year earning average in March 2009, or delaying retirement and receiving an additional two percent per year thereafter. At the time of trial, Lonnie was mulling over his options.

On our de novo review, we conclude the length of the marriage and the difference in earning capacity support the district court's award of spousal support. As for the amount, the court recognized that Patricia's expenses exceeded her income, but noted that she received "a fair amount of assets" in the property distribution. There is also evidence that Patricia would receive more than Lonnie in social security benefits. Based on these factors, we conclude the district court's award of \$700 per month was equitable. We further conclude that this award, together with the remaining assets Patricia received, were sufficient to cover her payments for health insurance premiums.

Lonnie requests appellate attorney fees. Given his higher earnings, we decline his request.

**AFFIRMED.**