

IN THE COURT OF APPEALS OF IOWA

No. 9-519 / 08-0224
Filed September 2, 2009

IN RE THE MARRIAGE OF JAMES MICHAEL PAUL AND BRANDY LEE PAUL

Upon the Petition of

JAMES MICHAEL PAUL,
Petitioner-Appellant,

And Concerning

BRANDY LEE PAUL,
Respondent-Appellee.

Appeal from the Iowa District Court for Linn County, Fae Hoover-Grinde,
Judge.

Petitioner appeals the alimony award in the parties' dissolution decree.

AFFIRMED.

Todd Weimer, Anamosa, for appellant.

Brandy L. Paul, Cedar Rapids, appellee pro se.

Considered by Sackett, C.J., Mansfield, J., and Schechtman, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2009).

SCHECHTMAN, S.J.

The sole issue in this appeal is the amount and term of the alimony award payable by the appellant, James Paul (Jim), to his spouse, Brandy Paul. We affirm.

I. Scope of review.

Our standard of review is de novo. *In re Marriage of Olson*, 705 N.W.2d 312, 313 (Iowa 2005). We give weight to the findings of the district court, but are not bound by them. Iowa R. App. P. 6.14(6)(g).

II. Background Facts.

The parties were married thirteen years. They are the parents of a son and a daughter, ages ten and eight, respectively. Brandy was employed at Amana Manufacturing at the time of their marriage, and Jim was pursuing a college degree. Brandy paid a portion of his student loans. She cashed in her pension with her employer to pay the wedding expenses (about \$7000), and to forward a down-payment on their marital home. When Brandy became pregnant, the couple agreed that she should remain in the home to care for their children.

Brandy eventually returned to the job market, working as a realtor's assistant, more recently as a bookkeeper at a church with an annual salary of \$19,000. She terminated this employment while the dissolution was pending (though she never sought any temporary alimony). Her alleged reason was the employer forbid her caring for the two children while working, and, she could not afford day care for that summer period.

Brandy has been diagnosed with attention deficit hyperactivity disorder (ADHD), and, suffers from debilitating migraine headaches. She was awarded the primary care of their daughter, Kylee, now ten (also afflicted with ADHD). Brandy is pursuing a bachelor's degree in business/accounting, via the internet, through a community college. The record is unclear as to the duration of her study, though she has contracted a \$3500 student loan.

Jim is employed as a probation officer by the federal government, earning \$70,800 annually. His employer furnishes health insurance for the children at an approximate cost of \$200 per month. Jim obtained physical care of their son (Keagen), and pays Brandy \$550 per month for the support of his daughter. His employment is stable.

The parties have minimal assets. Their homestead was sold for \$5000 less than the mortgage and sale expense, each paying their proportionate share of that loss. The sole physical assets, outside Jim's retirement plan, were household goods and two vehicles, each financed for near their value. Marital debts exceeded \$91,000 (including car loans), with Jim assigned \$55,000 of that debt, and, Brandy assuming the remaining \$36,000.

The dissolution court awarded Brandy alimony in the sum of \$500 per month for ten years, commenting that, "Brandy will have the opportunity to complete her degree and obtain employment that will provide income to her that will allow Brandy to live a lifestyle reasonably equivalent to that during the marriage." This appeal results from that award, challenging its amount and scope.

III. Applicable legal standards.

Alimony is a stipend to a spouse in lieu of the other spouse's obligation for support. *In re Marriage of Wegner*, 434 N.W.2d 397, 398 (Iowa 1988). Alimony may be used to compensate a spouse who leaves the marriage at a financial disadvantage. *In re Marriage of Geil*, 509 N.W.2d 738, 742 (Iowa 1993).

There are three types of alimony—traditional, rehabilitative, and reimbursement. *In re Marriage of Becker*, 756 N.W.2d 822, 826 (Iowa 2008). Traditional alimony is “payable for life, or for so long as the spouse is incapable of self-support.” *Id.* at 826. Rehabilitative alimony is “a way of supporting an economically dependent spouse through a limited period of re-education or retraining following divorce, thereby creating incentive and opportunity for that spouse to become self-supporting.” *Id.* (citation omitted). Reimbursement alimony “is predicated upon economic sacrifices made by one spouse during the marriage that directly enhance the future earning capacity of the other.” *In re Marriage of Francis*, 442 N.W.2d 59, 64 (Iowa 1989).

IV. Analysis.

The legislature has left its imprint on any analysis of alimony by listing ten factors to consider when assessing the merits of spousal support. Iowa Code section 598.21A(1)(a)-(j) (Supp. 2005).

Jim criticizes the trial court for failing to label the award as traditional, rehabilitative, or reimbursement alimony. There is no need to label the award; it may be a combination of types. *Becker*, 756 N.W.2d at 827. “What we are required to do is to consider the factors mandated by the legislature contained in

section 598.21(3) when considering a spousal support award.”¹ *Id.* We now, in accord with that mandate, proceed to briefly analyze those factors.

This marriage is not short by any means. Thirteen years is a generous portion of one’s early adulthood.² It’s the time (one’s twenties and early thirties) when life is shaped.

Each are in their mid-thirties. Jim has been treated for depression. Brandy suffers from ADHD, and migraine headaches;³ both of these afflictions are debilitating and tend to be long-term. These maladies may make some employers cautious about potential absences and sick leaves.

Brandy was assigned less of the debt, though reasonably moderate in amount, a portion of Jim’s pension, and most of the household goods.⁴ Neither of these afford any potential for present support. The debt is cumbersome. Most of it is for credit card charges, and, will increase, if not paid, with staggering penalties and interest. Jim contends that the unequal assignment of debt to him (about \$9500 more than one-half) is a compelling reason to reduce or vacate the monthly award. However, considering their incomes and potential, he has a much greater ability to retire his share of the debt than Brandy possesses to satisfy her decretal share.

Jim was a student in college at the time of their union and presently boasts a college degree, while Brandy has only a couple of semesters of college

¹ Iowa Code section 598.21(3) has been renumbered as section 598.21A. 2005 Acts, ch. 69, § 39.

² The length of marriage. *Id.* § 598.21A(1)(a).

³ The age and physical and emotional health of the parties. *Id.* § 598.21A(1)(b).

⁴ The distribution of property. *Id.* § 598.21A(1)(c).

credit.⁵ She needs the time and financing to complete college in order to compete favorably with much younger graduates for sustainable employment.

Jim has a rewarding position in a positive profession that appears to be stable, earning over \$70,000 annually; Brandy was out of the job market for years, returning to the workforce with varying results and was unemployed at the time of the dissolution.⁶ Her most recent employment was of the ten dollar an hour variety.

Brandy will need either more specialized training/experience or a degree to be able to secure meaningful long-range employment.⁷ Brandy will need a few years to earn a degree, or, in the alternative, several years of experience in some employment to attain a plateau where she can responsibly care for herself financially. She does not have any home, is renting, and needs time to be economically secure, much less solvent, no matter her eventual course. Brandy has a bundle of debt that will continue to consume a handsome portion of any paycheck.

Alimony is taxable to the recipient and deductible for the payor.⁸ This will be a saving on net income taxes, federal and state, for Jim. Because of her

⁵ The educational level of each party at the time of marriage and at the time the action is commenced. Iowa Code § 598.21A(1)(d).

⁶ The earning capacity of the party seeking maintenance, including educational background, training, employment skills, work experience, length of absence from the job market, responsibilities for children under either an award of custody or physical care, and the time and expense necessary to acquire sufficient education or training to enable the party to find appropriate employment. *Id.* § 598.21A(1)(e).

⁷ The feasibility of the party seeking maintenance becoming self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage, and the length of time necessary to achieve this goal. *Id.* § 598.21A(1)(f).

⁸ The tax consequences to each party. *Id.* § 598.21A(1)(g).

circumstances, it will have little taxable effect on Brandy, except as it may increase her adjusted gross income and decrease any resulting credits or benefits, based upon that adjusted gross income.

Brandy did work while Jim was obtaining his college degree, and for a few months until he found a job. She cared for the children while he was working his way up the ladder.⁹

V. Conclusion.

The aforesaid factors and equity clearly support an award of alimony.¹⁰ The trial court carefully thought through this issue and determined the amount and its duration. There is little reason to question its judgment or to adjust it, whether it be a minimal or a significant change, or longer or shorter time period (Brandy did not cross-appeal). Nor is there any need to characterize it as traditional, reimbursement, or rehabilitative alimony. Under the facts and the aforesaid statutory factors, we determine the trial court's award of alimony is meritorious and appropriate.

AFFIRMED.

⁹ Other factors the court may determine to be relevant in an individual case. Iowa Code § 598.21A(1)(j).

¹⁰ Two factors are not relevant; *Id.* § 598.21A(1)(h) and (i), relating to mutual agreements concerning contributions by one party, and the provisions of an antenuptial agreement.