

**IN THE COURT OF APPEALS OF IOWA**

No. 9-713 / 09-0187  
Filed January 22, 2010

**IN RE THE MARRIAGE OF DAVID S. FIELD  
AND MARILYNNE FIELD**

**Upon the Petition of  
DAVID S. FIELD,**  
Petitioner-Appellant/Cross-Appellee,

**And Concerning  
MARILYNNE FIELD,**  
Respondent-Appellee/Cross-Appellant.

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Appeal from the Iowa District Court for Dubuque County, Bruce B. Zager,  
Judge.

A husband and wife both appeal the provision of a dissolution decree regarding support payments to be made to the wife; the husband also contends that the district court inequitably divided the parties' property. **AFFIRMED.**

Robert L. Sudmeier and William N. Toomey of Fuerste, Carew, Juergens & Sudmeier, P.C., Dubuque, for appellant.

Matthew J. Brandes and Jacob R. Koller of Simmons, Perrine, Moyer, Bergman, P.L.C., Cedar Rapids, for appellee.

Heard by Vaitheswaran, P.J., Potterfield, J., and Mahan, S.J.\*

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

**VAITHESWARAN, P.J.**

Orthopaedic surgeon David Field petitioned for a dissolution of his thirty-six year marriage to Marilynne Field. The parties stipulated to a division of most of their personal property but disagreed on spousal support and the valuations of certain real estate. The case proceeded to trial on these issues. Following trial, the district court ordered David to pay Marilynne \$14,000 per month in traditional spousal support until she reaches the age of sixty-six or remarries, or until either David or Marilynne dies. The court also valued and divided the real estate and required David to make an equalizing payment of \$280,000 to Marilynne. David appealed and Marilynne cross-appealed.

***I. Spousal Support***

Both former spouses challenge the district court's award of \$14,000 per month in traditional alimony, with David contending the award should be zero or no more than \$4000 per month and Marilynne seeking \$15,000 per month for a longer period. Although review of the award is de novo, the district court is given considerable latitude in making this determination, and "[w]e will disturb that determination only when there has been a failure to do equity." *In re Marriage of Anliker*, 694 N.W.2d 535, 540 (Iowa 2005).

We discern no failure to do equity. David and Marilynne married in 1970 and divorced thirty-eight years later. During most of the marriage, Marilynne did not earn wages. She cared for the parties' three children and maintained the household, as well as an active presence in civic organizations. David had a thriving medical practice, earning an average of \$738,714.60 per year in the five years preceding trial and close to one million dollars in the year preceding trial.

During the marriage, husband and wife lived a lavish lifestyle, averaging between \$30,000 and \$40,000 per month in living expenses. After they separated, David provided Marilynne with \$10,000 per month to meet her living expenses. He stated,

I put 10,000 in the account because I thought that was a reasonable number, trying to understand the economics of our—of our marriage at that point. I was taking over all of the bills except for Marilynne’s personal bills and mortgage in that time frame. That’s correct. That’s why I did that.

While David takes issue with Marilynne’s itemization of her expenses, “[t]he purpose of a traditional or permanent alimony award is to provide the receiving spouse with support comparable to what he or she would receive if the marriage continued.” *In re Marriage of Hettinga*, 574 N.W.2d 920, 922 (Iowa Ct. App. 1997).

David also suggests that Marilynne could live comfortably on her substantial property settlement. However, Marilynne’s earning capacity was negligible relative to his, and she removed herself from the workforce to assist her family and David’s career. See *In re Marriage of Becker*, 756 N.W.2d 822, 827 (Iowa 2008) (awarding spousal support to wife despite a 3.3 million dollar property award and noting that “Fred and Laura’s decision to have Laura abandon her work outside the home hindered her ability to maximize her earning capacity during the marriage”). We conclude Marilynne is entitled to spousal support.

As for the amount and duration of the award, we are not persuaded by Marilynne’s argument that she should have received more alimony for a longer time. The district court awarded her a significant sum in recognition of the fact

that she was “out of the workforce for over thirty-three (33) years” and the fact that she was “very productive . . . to [David’s] practice and to the marriage.” We agree with the court’s reasoning and find the amount and duration of the award equitable.

## **II. Property Distribution**

David next challenges the values the district court assigned to several pieces of real estate and his business. Due to the difficulty in setting the value of assets, appellate courts afford district courts leeway in determining value. *In re Marriage of Steele*, 502 N.W.2d 18, 21 (Iowa Ct. App. 1993). When a district court’s valuation is within the range of evidence, it will not be disturbed on appeal. See *In re Marriage of Wiedemann*, 402 N.W.2d 744, 748 (Iowa 1987).

The district court carefully considered the testimony of competing experts and arrived at valuation figures that were within the range of the evidence. On the highly contested issue of whether to apply marketability discounts to David’s business properties, the court made a key credibility finding in favor of Marilynne’s expert and cited appropriate authority that militated against the application of these discounts. See Iowa R. App. P. 6.904(3)(g) (stating that in equity cases, appellate courts give weight to the credibility findings of the district court). We find no reason to disturb the court’s cogent findings and conclusions on this and other property-related issues.

## **III. Appellate Attorney Fees**

Marilynne seeks an award of appellate attorney fees. We conclude both parties have the resources to pay their own attorney fees. See *In re Marriage of Okland*, 699 N.W.2d 260, 270 (Iowa 2005) (noting that the factors that a court

should consider in determining whether to award attorney fees are “the needs of the party seeking the award, the ability of the other party to pay, and the relative merits of the appeal.” (quoting *In re Marriage of Geil*, 509 N.W.2d 738, 743 (Iowa 1993)). Therefore, we decline her request.

**AFFIRMED.**