

IN THE COURT OF APPEALS OF IOWA

No. 9-988 / 09-1008
Filed December 30, 2009

IN RE THE MARRIAGE OF STEVEN B. CORBIN AND LINDA A. CORBIN

Upon the Petition of

STEVEN B. CORBIN,
Petitioner-Appellant,

And Concerning

LINDA A. CORBIN,
Respondent-Appellee.

Appeal from the Iowa District Court for Black Hawk County, Kellyann M. Lekar, Judge.

Petitioner appeals from the dissolution decree provision awarding the respondent alimony. **AFFIRMED.**

David H. Correll of Correll, Sheerer, Benson, Engels, Galles & Demro, P.L.C., Cedar Falls, for appellant.

Thomas W. Langlas of Gallagher, Langlas & Gallagher, P.C., Waterloo, for appellee.

Considered by Sackett, C.J., Vaitheswaran and Danilson, JJ.

SACKETT, C.J.

Steven B. Corbin appeals from a decree dissolving his marriage to Linda A. Corbin. He challenges that portion of the decree awarding Linda alimony.

I. BACKGROUND AND PROCEEDINGS. Steven earned an undergraduate degree in January of 1970. Linda had obtained an undergraduate degree a year earlier and apparently was teaching elementary education at the time the parties were married in June of 1970, and she continued to teach until the oldest child was born in 1976. Steven began teaching following his graduation and also through summer school, obtained a master's degree in education in 1972. He then sought and obtained a doctoral degree in education in 1975. While acquiring his master's and doctoral degrees, he had scholarship help and was employed as a teaching assistance. A second child was born in 1984. The children are now adults.

Steven got a position at the University of Northern Iowa in 1975 and his employment there continued until the time of trial. His salary for the 2008 to 2009 school year was set at \$106,606 and his benefit package was valued at \$33,048. He may be able to increase his earnings by taking on extra assignments.

Linda returned to substitute teaching as the children grew older and in the summer of 1984, she was employed by the University of Northern Iowa and her salary for 2008 to 2009 was set at \$54,140 and her benefits package was valued at \$20,627. The parties, by the time of trial, had accumulated assets approximately valued at 2.4 million dollars.

The May 14, 2009 decree essentially divided the parties' assets equally. The court also ordered Steven to pay Linda alimony of \$2000 a month until he is sixty-six, at which time the alimony decreases to \$500 a month payable until either party dies or Linda remarries. The court also ordered that Steven list Linda as beneficiary on his life insurance through the University as long as he is obligated to pay alimony.

II. SCOPE OF REVIEW. We review de novo. *In re Marriage of Mouw*, 561 N.W.2d 100, 101 (Iowa Ct. App. 1997); *In re Marriage of Craig*, 462 N.W.2d 692, 693 (Iowa Ct. App. 1990). While not bound by the trial court's factual findings, we give them weight in considering the credibility of witnesses. *In re Marriage of Farrell*, 481 N.W.2d 528, 530 (Iowa Ct. App. 1991).

III. ALIMONY SHOULD NOT HAVE BEEN AWARDED. Steven contends the award of alimony is not equitable and should be eliminated or reduced.

Alimony is a stipend to a spouse in lieu of the other spouse's legal obligation for support. *In re Marriage of Francis*, 442 N.W.2d 59, 62 (Iowa 1989). Alimony is not an absolute right, and an award thereof depends upon the circumstances of a particular case. *In re Marriage of Becker*, 756 N.W.2d 822, 825 (Iowa 2008). When making or denying an alimony award, the trial court considers the factors set forth in Iowa Code section 598.21A (2007). *In re Marriage of Olson*, 705 N.W.2d 312, 315-16 (Iowa 2005). 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).

Linda assisted Steven in obtaining higher education. His current earnings are substantially more than are hers. She removed herself from the job market for a period to care for the parties' children and home. While both parties are in relatively good health and gainfully employed, Linda has suffered with ovarian cancer in recent years. In considering the factors under section 598.21A, the court's award was not inequitable.

AFFIRMED.

Danilson, J., dissents.

DANILSON, J. (dissenting)

I respectfully dissent. I disagree with the amount of alimony awarded. Alimony is appropriate in light of the length of the parties' marriage, the disparity of their incomes, equal property distribution, and to give due consideration to Linda's contributions to Steven's advanced degrees. However, this is not a situation similar to *In re Marriage of Francis*, 442 N.W.2d 59 (Iowa 1989), where the parties are dissolving their marriage shortly after the degree is obtained. Here, Linda has been largely compensated for her contributions to Steven's degrees by the assets the parties have accumulated over the course of their married lives.

Comparing base salaries, Steven earns \$2868 more monthly net income than Linda. Steven's income is also supplemented by an additional \$10,000 to \$12,000 per year by teaching a summer class or serving as the interim dean. He has also received some consulting fees, but those fees are limited when he serves as the interim dean.

Requiring Steven to pay \$2000 per month under these circumstances is inequitable. Linda's monthly expenses do not exceed her net monthly income. I would fix alimony in the sum of \$1250 per month until Linda reaches the age of sixty-six whereupon it would decrease to \$500 a month.