

SUPREME COURT OF IOWA

In re Marriage of Travis Sisson and Alfronia Sisson

843 N.W.2d 866 (Iowa 2014) · No. No. 12-1023 · Decided March 7, 2014

SUMMARY

The Iowa Supreme Court reviewed a modification of a dissolution decree involving spousal support and physical care. The court held that the former wife's terminal cancer and resulting diminished earning capacity constituted a substantial change in circumstances warranting increased and lifetime spousal support. It affirmed the denial of a physical-care modification, modified the support award to \$1,600 per month retroactive to March 15, 2012, and eliminated the former husband's obligation to pay a share of her future uncovered medical expenses.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Cady, Chief Justice
JURISDICTION	Iowa
DECIDED	March 7, 2014
DOCKET	No. 12-1023
DISPOSITION	other
PROCEDURAL POSTURE	Appeal and cross-appeal from an Iowa District Court order modifying spousal support provisions in a dissolution decree and denying a request to modify physical custody; review was granted after the Iowa Court of Appeals affirmed most of the district court's ruling.
STANDARD OF REVIEW	Orders modifying dissolution decrees are reviewed de novo. The court gives weight to district court findings, particularly credibility findings, but those findings are not binding. The ruling is disturbed only when there has been a failure to do equity.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Travis Sisson v. Alfronia Sisson

TOPICS

- spousal support
- family law procedure
- dissolution of marriage
- appellate procedure
- standard of review

PRACTICE AREAS

family law

spousal support

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether Alfronia established a substantial, material, essentially permanent, and unanticipated change in circumstances warranting modification of spousal support.
2. Whether the extraordinary circumstances justified changing rehabilitative spousal support from a finite duration to support payable for the remainder of Alfronia's life.
3. Whether the amount of modified spousal support was equitable in light of Alfronia's medical condition, earning capacity, expenses, assets, and life expectancy.
4. Whether the spousal-support modification should be retroactive to the date of Alfronia's modification application or to the date of the district court's modified decree.
5. Whether Travis should be required to pay one-half of Alfronia's future medical expenses not covered by insurance.
6. Whether Travis established grounds to modify the parties' physical-care arrangement.
7. Whether Alfronia was entitled to trial or appellate attorney fees.

HOLDINGS

1. Alfronia established a substantial, material, essentially permanent, and unanticipated change in circumstances because her unexpected terminal illness substantially reduced her earning capacity and defeated the decree's expectation that she would become self-supporting.
2. A finite spousal-support award may be modified to provide support for the remainder of the recipient's life when extraordinary, unanticipated circumstances render the original award grossly unfair; Alfronia's terminal cancer and resulting loss of earning capacity satisfied that standard.
3. Alfronia's \$150,000 retirement account and \$80,000 savings account were resources available to help meet her current financial needs and had to be considered in determining the amount of modified spousal support.
4. Spousal support should be set at \$1,600 per month and continue for the remainder of Alfronia's life, subject to termination if she remarries.
5. The modified spousal-support obligation was properly made retroactive to March 15, 2012, the date of the district court's modified decree, rather than May 1, 2011, the date of Alfronia's modification application.
6. The provision requiring Travis to share in Alfronia's future noncovered medical expenses was stricken because the modified support award already accounted for her current and potential medical expenses.
7. Travis failed to establish grounds for modifying the parties' physical-care arrangement.
8. Alfronia was not entitled to trial attorney fees, but was awarded \$3,000 in appellate attorney fees; appellate costs were divided equally.

KEY QUOTATIONS

“We conclude a change in circumstances was established to support a modification of spousal support, and we resolve all other issues presented for review.” (at 867)

“We conclude that Alfronia has suffered a substantial reduction in her earning capacity due to her medical condition.” (at 870)

“The circumstances to justify permanent alimony do not necessarily require unemployment, but require a change in employment that places the former spouse in a financial position well short of the expected self-sufficiency despite good-faith efforts.” (at 871)

“Additionally, the spousal support award must be modified to continue for the remainder of her life.” (at 875)

“We vacate the decision of the court of appeals and affirm the order of the district court, as modified by this opinion.” (at 877)

FACTUAL BACKGROUND

Travis and Alfronia Sisson dissolved their eleven-year marriage in 2008 under a decree providing joint legal custody, shared physical care, child support, and rehabilitative spousal support payable for a finite period. After the divorce, Alfronia developed hand tremors and was diagnosed with incurable multiple myeloma, substantially limiting her ability to pursue the retraining and employment path contemplated by the decree and reducing her earning capacity. At the modification hearing, Alfronia had significant medical expenses, reduced income, retirement and savings assets, and a materially shortened life expectancy, while Travis continued to earn substantial income through his business. Travis sought a change in physical care and reduction of child support; Alfronia sought increased and extended spousal support and increased child support.

PROCEDURAL HISTORY

The Iowa District Court for Polk County denied Travis Sisson's request to modify physical care, increased Alfronia Sisson's monthly spousal support to \$2,100 retroactive to May 1, 2011, extended support for her lifetime, and required Travis to pay one-half of certain noncovered medical expenses. The Iowa Court of Appeals affirmed those rulings and awarded Alfronia \$3,000 in appellate attorney fees. The Iowa Supreme Court granted further review, vacated the Court of Appeals decision, and affirmed the district court order as modified.

DISPOSITION

other

CASES CITED

- In re Marriage of Feustel, 467 N.W.2d 261, 263 (Iowa 1991)
- In re Marriage of McDermott, 827 N.W.2d 671, 676 (Iowa 2013)
- In re Marriage of Schriener, 695 N.W.2d 493, 496 (Iowa 2005)
- In re Marriage of Romanelli, 570 N.W.2d 761, 763 (Iowa 1997)
- Mears v. Mears, 213 N.W.2d 511, 515 (Iowa 1973)

- In re Marriage of Wessels, 542 N.W.2d 486, 488-90 (Iowa 1995)
- In re Marriage of Marshall, 394 N.W.2d 392, 396-97 (Iowa 1986)
- Ellis v. Ellis, 262 N.W.2d 265, 267-68 (Iowa 1978)
- In re Marriage of Olson, 705 N.W.2d 312, 316 (Iowa 2005)
- In re Marriage of Francis, 442 N.W.2d 59, 64 (Iowa 1989)
- In re Marriage of Shima, 360 N.W.2d 827, 828 (Iowa 1985)
- Myers v. Myers, 195 N.W.2d 113, 114 (Iowa 1972)
- In re Marriage of Bonnette, 431 N.W.2d 1, 5 (Iowa Ct. App. 1988)

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