

**IN THE COURT OF APPEALS OF IOWA**

No. 1-220 / 10-1601

Filed April 27, 2011

**IN RE THE MARRIAGE OF DANAH JEANNINE HOECHST  
AND CHAD MICHAEL HOECHST**

**Upon the Petition of  
DANAH JEANNINE HOECHST,**  
Petitioner-Appellee,

**And Concerning  
CHAD MICHAEL HOECHST,**  
Respondent-Appellant.

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Appeal from the Iowa District Court for Warren County, Gregory A. Hulse,  
Judge.

Chad Hoechst appeals from the child support and economic provisions of  
the decree dissolving his marriage to Danah Hoechst. **AFFIRMED.**

Pamela A. Vandel, Des Moines, for appellant.

Leslie Babich and Kodi A. Brotherson of Babich Goldman, P.C., Des  
Moines, for appellee.

Considered by Vogel, P.J., and Doyle and Tabor, JJ.

**DOYLE, J.**

Chad and Danah Hoechst (now thirty-five and thirty-one, respectively) were married in June 2008. The couple had a daughter in July 2008. Chad also has a child from a prior marriage and has an obligation for the child's support.

In February 2009, Danah filed a petition for dissolution of marriage. While that dissolution action was pending, Chad filed a petition for modification of his child support obligation from his prior marriage. Chad took the position in both his dissolution case with Danah and his modification case that he had no income and thus should not have any child support obligations. In his modification action, Chad asserted there had been a substantial change in circumstances, the alleged reduction of his income to nothing, such that his prior child support obligation should be modified.

Trial on Danah and Chad's dissolution of marriage was held on February 11 and May 13, 2010. After the trial was held but before the district court entered its decree in the dissolution, a decision was rendered in Chad's modification action. The district court in that case concluded there was a less than ten-percent change in Chad's child support obligation. The court found Chad's child support worksheet was inaccurate and did not reflect all of his sources of income. The court determined Chad's annual income to be \$40,000 and declined to modify Chad's prior child support obligation.

Thereafter, Danah filed a motion requesting the trial record be reopened in her and Chad's dissolution action and that she be allowed to introduce the modification decision into evidence as *res judicata* on the issue of Chad's income in the dissolution action. Chad resisted.

On August 31, 2010, the district court entered its decree dissolving Chad and Danah's marriage. The court granted Danah's request to reopen the record and permitted the entry of the modification court's ruling into evidence. On the issue of Chad's income, the court found, like the court in the modification action, that Chad's testimony with regard to his earnings was not credible. The dissolution court concluded that the doctrine of issue preclusion was appropriate in the case, and it determined Chad's annual income should be determined to be at least \$40,000 as found by the court in his modification action. The court further concluded that "the independent evidence offered in this case is not inconsistent with that determination." The court found Chad's child support obligation in the matter should thus be \$476.93 per month.

Additionally, the dissolution court determined that equity required certain marital property be awarded to Danah. The court also found there was no showing that Danah's withdrawal of funds from the parties' joint marital bank account exceeded more than her share. The court further concluded equity required Danah be awarded twenty-five percent (not to exceed \$8026) of the net proceeds from the sale of the marital home, and each party should share equally in the visitation transportation costs. The court determined Chad should be required to pay \$2500 towards Danah's attorney fees, finding Chad had forced Danah to incur unnecessary legal fees.

Chad now appeals. He argues the district court erred in determining his income to be \$40,000 per year and thus erred in establishing his child support obligation based upon that income. Additionally, he contends the court erred in failing to award him an equitable division of the marital assets, and he asserts the

court abused its discretion by ordering him to pay a portion of Danah's attorney fees. Danah requests appellate attorney fees.

Upon our de novo review of the record, we agree with the reasons and conclusions set forth by the district court in its exhaustive, clearly written, and well-organized thirty-three-page decision. That decree directly answers the contentions now raised by Chad on appeal. The district court appropriately addressed the issue of Chad's income, and it did not err in determining the evidence presented at trial reasonably supported its conclusion that Chad's annual income was \$40,000. Furthermore, the district court considered the appropriate factors in making an equitable distribution of the marital property as outlined in Iowa Code section 598.21(5) (2009), and on our de novo review, we agree the court's division of assets was equitable. Likewise, we agree the court's assignment of visitation transportation responsibilities was equitable, and we find no abuse of discretion in the district court's determination that Chad should pay \$2500 of Danah's attorney fees. Accordingly, we affirm the district court's decree pursuant to Iowa Court Rule 21.29(1)(d).

Danah seeks an award of appellate attorney fees. We enjoy broad discretion in awarding appellate attorney fees. *In re Marriage of Okland*, 699 N.W.2d 260, 270 (Iowa 2005). In exercising this discretion, we consider several factors: the financial needs of the party seeking the award, the ability of the other party to pay, and the relative merits of the appeal. *Id.* We decline to award appellate attorney fees in this case.

**AFFIRMED.**