

IN THE COURT OF APPEALS OF IOWA

No. 3-070 / 12-1136
Filed April 10, 2013

**IN RE THE MARRIAGE OF JERI R. RENES
AND CHARLES R. RENES**

**Upon the Petition of
JERI R. RENES,**
Petitioner-Appellant,

**And Concerning
CHARLES R. RENES,**
Respondent-Appellee.

Appeal from the Iowa District Court for Polk County, Robert A. Hutchison,
Judge.

Jeri R. Renes appeals from the district court order denying her motion to
enforce a decree of dissolution and application for contempt. **AFFIRMED.**

Max Burkey, Des Moines, for appellant.

Cathleen J. Siebrecht of Siebrecht Law Firm, Des Moines, for appellee.

Considered by Eisenhauer, C.J., and Danilson and Bower, JJ.

BOWER, J.

Jeri R. Renes appeals from the district court order denying her motion to enforce a decree of dissolution and application for contempt. Jeri argues the district court improperly applied the defenses of laches and equitable estoppel, improperly held that a support obligation may be satisfied without paying through the Friend of the Court, and in failing to hold her ex-husband in contempt. Because we agree with the analysis of the district court, we affirm.

I. Background Facts and Proceedings

Jeri and Charles Renes were married in 1973. Their marriage produced two children: Robert, born in 1975, and Larissa, born in 1979. A decree of dissolution was entered in 1983. As a part of the decree, Charles was ordered to pay child support of \$200 per month per child until certain conditions were met.¹ All payments were to be made through the Friend of the Court. All parties agree this did not happen.

Nearly thirty years after the decree, and well over a decade after the obligation ended, Jeri brought this action seeking over \$155,000 in back child support and interest. Charles admits that he did not pay his obligation through the Friend of the Court as ordered but testified he paid the support directly to Jeri as the parties had agreed.

The district court found Jeri's testimony was not believable, that she lacked credibility, and overwhelming evidence supported Charles's affirmative defenses of laches and equitable estoppel.

¹ All parties agree Charles has no present, on-going, duty of support.

II. Standard of Review

Our review is de novo. *In re Marriage of Smiley*, 518 N.W.2d 376, 378 (Iowa 1994). “We examine the entire record and adjudicate anew rights on the issues properly presented.” *Id.* Though we are not bound by the findings of the trial court, we give proper weight to them, particularly on issues of credibility. *Id.*

III. Discussion

A. Support

All parties agree that Charles failed to pay support through the Friend of the Court. The question on appeal is whether laches and promissory estoppel prevent Jeri from recovering sums she claims are past-due.²

The elements of promissory estoppel “are: (1) a clear and definite oral agreement, (2) proof that plaintiff acted to his detriment in reliance thereon, and (3) a finding that the equities entitle plaintiff to [the] relief.” *In re Marriage of Harvey*, 523 N.W.2d 755, 756–57 (Iowa 1994). In *Harvey*, a father argued that an oral agreement existed between him and his ex-wife where he would not pay child support so long as a child was living with him. *Id.* at 757. Our supreme court agreed, primarily because it found the testimony of the ex-wife unconvincing. *Id.* Of particular importance was the ex-wife’s failure, despite many opportunities, to assert her rights during the period of time in question. *Id.*

Mindful of the admonition in *Harvey* that equitable estoppel should only be applied in cases of this kind on rare occasions, we agree with the analysis of the

² Charles argues that Jeri has failed to properly preserve error because of the way her appellate brief is presented. Because the district court ruled on the issues presented on appeal, and because the appeal was taken in a timely fashion, we find the preservation of error argument to be without merit.

district court. See *id.* at 756. Charles testified that he reached an agreement with Jeri where he would directly support the family. Though evidence of the agreement is in conflict, the credible evidence strongly supports Charles's position.³ Jeri, despite decades of opportunity, has failed, until recently, to assert her claims or bring an action to enforce the decree.⁴ Jeri testified that, despite low wages throughout most of the period, she never applied for or received public assistance which reinforces Charles's testimony that he was continuing to support the family as the parties had agreed. Over the decades, Charles bought and sold real estate. As the district court recognized, these transactions would have been impossible, due to liens on the property, if Charles had not paid his child support obligation.

Having found that a clear and definite oral agreement was in place, we find that Charles expended substantial sums of money for Jeri and the children to his detriment in reliance upon the agreement.⁵ Absent the agreement, Charles likely would not have spent his scarce resources in this manner. The equities strongly entitle Charles to relief.

³ We note that the district court did not find Jeri to be credible. Testimony was presented that Jeri, while employed by Charles, paid her personal obligations with company funds unbeknownst to Charles. While these allegations do not require a conclusion that Jeri lacks credibility, it certainly supports the district court's conclusion. Though we are not bound by this determination, we give it substantial weight.

⁴ Jeri also admits she permitted one child to live with Charles for an extended period of time, in violation of the terms of the decree. This provides further evidence that the parties freely deviated from the terms of the decree.

⁵ We note that Charles was unable to prove the exact amount he expended over the years in support of Jeri and the children due to the destruction of his financial records in a flood.

Having determined that the doctrine of promissory estoppel precludes Jeri's request in this case, we need not reach the issue of whether a party is required to make payments through the Friend of the Court.⁶

B. Contempt

Jeri argues the district court erred in failing to find Charles in contempt. Contempt is discretionary. *In re Marriage of Swan*, 526 N.W.2d 320, 327 (Iowa 1995). The trial court was not required to hold Charles in contempt even if Jeri had proven her allegations. *See id.* Having concluded that Charles satisfied his support obligations, the district court did not abuse its discretion in failing to find him in contempt.

AFFIRMED.

⁶ In addition to promissory estoppel, Charles pled the affirmative defense of laches. Because we find that promissory estoppel disposes of the issues in this case, we do not address the laches arguments.