

**IN THE COURT OF APPEALS OF IOWA**

No. 8-032 / 07-1162  
Filed February 13, 2008

**IN RE THE MARRIAGE OF SHARON D. MOUW AND JEFFREY MOUW,**

**Upon the Petition of  
SHARON D. MOUW,**  
Petitioner-Appellant,

**And Concerning  
JEFFREY MOUW,**  
Respondent-Appellee.

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Appeal from the Iowa District Court for Sioux County, James D. Scott,  
Judge.

Petitioner appeals from the economic provisions of the decree dissolving  
the parties' marriage. **AFFIRMED AS MODIFIED.**

Michael L. Zenor of Zenor, Houchins & Borth, Spencer, for appellant.

Lloyd W. Bierma of Oostr, Bierma & Van Engen, P.L.C., Sioux Center,  
for appellee.

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

**SACKETT, C.J.**

Petitioner-appellant, Sharon Mouw, appeals from the economic provisions of the decree dissolving her marriage to respondent-appellee, Jeffrey Mouw. She contends the court erred in valuing certain assets and in not awarding her traditional alimony. We affirm as modified.

**I. Background**

The parties married in 1980. They had two children who are now adults. At the time of the dissolution in June of 2007, Sharon was fifty-one years old and Jeffrey was fifty-seven. Sharon has a GED and one semester of college. She works as a travel agent, cleans houses, and does other office work. The district court found she had monthly income of \$1550. Jeffrey has a tenth-grade education and is a long-haul truck driver. The district court found his monthly income to be \$3000.

The district court valued certain assets and based on these valuations awarded Jeffrey the family home, an acreage, and assigned all the parties' debt to him. The district court determined this left Jeffrey with a negative net award of \$19,269. The court awarded Sharon assets of \$8912 but did not order her to pay any of the parties' debts. The court considered alimony together with the property award and concluded alimony was not appropriate because of the disparity in the property settlement, Sharon's younger age, her better health, and greater education.

**II. Scope and Standards of Review**

We review decrees of dissolution of marriage de novo. Iowa R. App. P. 6.4. We give weight to the findings of the district court, but are not bound by

them. *In re Marriage of Brown*, 487 N.W.2d 331, 332 (Iowa 1992). Prior cases have little precedential value, and we base our decision on the facts and circumstances unique to the parties before us. *In re Marriage of Gaer*, 476 N.W.2d 324, 326 (Iowa 1991). “We consider alimony and property division together in assessing their individual sufficiency. They are neither made nor subject to evaluation in isolation from one another.” *In re Marriage of McLaughlin*, 526 N.W.2d 342, 345 (Iowa Ct. App. 1994). An award of alimony depends on the circumstances of each particular case. *In re Marriage of Dieger*, 584 N.W.2d 567, 570 (Iowa Ct. App. 1998). When determining the appropriateness of alimony, the court must consider the statutory factors enumerated in Iowa Code section 598.21A (Supp. 2005). The court also considers each party’s earning capacity, as well as the parties’ present standards of living and ability to pay, balanced against the relative needs of the other. *In re Marriage of Hettinga*, 574 N.W.2d 920, 922 (Iowa Ct. App. 1997). Although our review of the district court’s alimony award is de novo, we afford that court considerable latitude in making the determination. *In re Marriage of Anliker*, 694 N.W.2d 535, 540 (Iowa 2005). We will disturb that determination only when there has been a failure to do equity. *Id.*

### **III. Property Division**

Sharon contends the district court undervalued certain of the assets awarded Jeffrey and erred in considering as debt to Jeffrey an oral obligation to Jeffrey’s father, which the court determined to be in the amount of \$75,000. Sharon contends the home and acreage that went to Jeffrey should have been valued at \$250,000 rather than the \$185,000 value placed on it by the district

court. She also challenges the valuation placed on a Peterbilt tractor and reefer trailer. Although our review is de novo, we will defer to the trial court when valuations are accompanied with supporting credibility findings or corroborating evidence. We find the values assigned by the court are within the permissible range of the evidence and we will not disturb them on appeal. See *In re Marriage of Hansen*, 733 N.W.2d 683, 703 (Iowa 2007); *In re Marriage of Vieth*, 591 N.W.2d 639, 640 (Iowa Ct. App. 1999).

We consider the valuations established by the district court in assessing the economic provisions of the decree.

Sharon also challenges the district court crediting to Jeffrey a \$75,000 oral debt he claimed was owed to his father. In 1993 Jeffrey's father sold and transferred to Jeffrey and Sharon the home and part of the acreage allocated to Jeffrey. The district court found there was an oral agreement between Jeffrey and his father for a sale price of \$75,000 with payment of interest only at \$400 a month and principal payments at Jeffrey and Sharon's discretion. The court further found "Jeffrey's father has never asked for principal and the court does not believe he intends to do so."

Sharon argues if the \$75,000 is not going to be repaid then it should not excuse Jeffrey from paying alimony.

We give some consideration to Sharon's argument on this issue in assessing her claim for alimony. The forbearance of principal payments is in the nature of a gift to Jeffrey. Sharon testified the \$400 was paid to Jeffrey's father nearly every month and it was her understanding the \$400 went to principal and no interest was being charged. She also testified this was his way

of giving the couple an inheritance without having to pay taxes. Inherited and gifted property can be considered in determining alimony. See, e.g., *In re Marriage of Moffatt*, 279 N.W.2d 15, 20 (Iowa 1979); *In re Marriage of Weiss*, 496 N.W.2d 785, 788 (Iowa Ct. App. 1992); *In re Marriage of Voss*, 396 N.W.2d 801, 804 (Iowa Ct. App. 1986).

#### **IV. Alimony**

We address Sharon's contention the court erred in not awarding her traditional alimony. This was a nearly thirty-year marriage. Jeffrey's income is greater than Sharon's. Sharon spent several years out of the workforce caring for the couple's children. She worked for a number of years as a travel agent, an occupation for which there no longer is a demand. We modify the decree to provide that Jeffrey shall pay Sharon alimony of \$200 a month until he reaches his sixty-second birthday. The alimony shall terminate at the death of either party if it occurs before Jeffrey's sixty-second birthday.

#### **V. Attorney Fees**

Sharon requests appellate attorney fees. In considering such a request, we look to the needs of the party making the request, the ability of the other party to pay, and whether the party making the request was obligated to defend the trial court's decision on appeal. *In re Marriage of Wood*, 567 N.W.2d 680, 684 (Iowa Ct. App. 1997). Jeffrey is ordered to pay \$250 of Sharon's appellate attorney fees. Costs on appeal are taxed one-half to each party.

**AFFIRMED AS MODIFIED.**