

IN THE COURT OF APPEALS OF IOWA

No. 9-186 / 08-1084
Filed May 6, 2009

**IN RE THE MARRIAGE OF PHILIP L. TILLMAN
AND ELIZABETH ANN TILLMAN**

**Upon the Petition of
PHILIP L. TILLMAN,**
Petitioner-Appellee,

**And Concerning
ELIZABETH ANN TILLMAN n/k/a
ELIZABETH ANN VRIEZELAAR,**
Respondent-Appellant.

Appeal from the Iowa District Court for Linn County, Marsha Bergan,
Judge.

The respondent appeals from the spousal support provision of the district
court's order dissolving her marriage to the petitioner. **AFFIRMED.**

Stephen Jackson, Cedar Rapids, for appellant.

Guy Booth, Cedar Rapids, for appellee.

Considered by Vogel, P.J., and Vaitheswaran and Eisenhauer, JJ.

VOGEL, P.J.

Elizabeth Tillman appeals from the spousal support provision of the decree dissolving her marriage to Philip Tillman. She asserts that the spousal support award should have been in a greater amount and for a longer duration. We review dissolution proceedings de novo. Iowa R. App. P. 6.4; *In re Marriage of Becker*, 756 N.W.2d 822, 824-25 (Iowa 2008). We give weight to the factual findings of the district court, especially when considering the credibility of witnesses, but are not bound by them. Iowa R. App. P. 6.14(6)(g). “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).

An award of spousal support depends on the circumstances of a particular case. *Becker*, 756 N.W.2d at 825. In making a spousal support award, the district court must consider the statutory factors enumerated in Iowa Code section 598.21A (Supp. 2005). In the present case, the district court found that the parties had been married for over thirty-three years and each had sacrificed some career opportunities while the other obtained a degree. However, Elizabeth, who was fifty-six years old, was unemployable due to her medical conditions. Thus, the district court awarded traditional alimony. See *Becker*, 756 N.W.2d at 826 (“Traditional spousal support is ‘payable for life or so long as a spouse is incapable of self-support.’” (citations omitted)).

Upon a close examination of the evidence presented to the district court, we first observe the distribution of assets was fair to both parties. This is

important as one factor we consider in reviewing an award of spousal support is the amount of property settlement. See *In re Marriage of Griffin*, 356 N.W.2d 606, 608 (Iowa Ct. App. 1984) (“Property division and alimony must be considered together in evaluating their individual sufficiency. They are neither made nor subject to evaluation in isolation from one another.”). In this case there were substantial assets to be distributed and as such Elizabeth left the marriage with assets, apart from the awarded spousal support. In addition, it is significant to note that Elizabeth will be protected in her retirement by receiving fifty percent of the monthly benefit amount of Philip’s Rockwell defined-benefit retirement account, as well as receiving an equal portion of the Rockwell retirement savings plan and an equal portion of the Edward Jones retirement account. Additionally, Philip was ordered to maintain Elizabeth as a beneficiary of his fairly substantial life insurance policy.

An award of spousal support is a balancing of the equities. *In re Marriage of Clinton*, 579 N.W.2d 835, 839 (Iowa Ct. App. 1998). We conclude that the district court considered the appropriate factors in making an award. See Iowa Code § 598.21A. For the reasons noted above and other reasons considered by the district court, on our de novo review we decline to modify the spousal support award in either amount or duration. We affirm pursuant to Iowa Court Rule 21.29(1)(a), (c), (d), and (e).

AFFIRMED.