

A-24-726, Jessica Cerra v. Robert Cerra (Appellant)

Sarpy County, District Court, Judge Nathan B. Cox

Attorney for Appellant: Kelly T. Shattuck
(Vacanti|Shattuck|Finocchiaro)

Attorney for Appellee: Kimberly J. Workman (Binning & Plambeck, LLP)

Civil Action: Dissolution of Marriage

Action Taken by Trial Court: The district court dissolved the parties' marriage, valued and divided the parties' property and debts, and ordered Robert to pay Jessica \$62,652.39 to equalize the marital estate. The court awarded sole legal and physical custody of the parties' daughter to Jessica, granted Jessica permission to remove the child to Iowa, and ordered Robert to pay child support. The court's parenting plan provided, in part, that Robert "may have parenting time with the minor child under therapeutic visitation by a licensed therapist"; Robert "shall provide reasonable notice and advance request to [Jessica] to participate in any therapeutic sessions set by the therapist which recommends the participation of [Robert]"; and Jessica "shall pick the therapist."

Assignments of Error on Appeal: Robert assigns that the district court abused its discretion by (1) including his premarital assets in the marital estate and improperly valuing and dividing the marital estate, and (2) creating a conditional decree that did not provide a realistic mechanism for him to maintain a relationship with his daughter and placed the outcome of any future visits in the hands of an unknown expert chosen by Jessica.

More specifically, Robert claims the following errors with respect to valuing and dividing the marital estate:

- His premarital down payment on the home was improperly included in the marital estate and he should have been given credit for 1 year of monthly mortgage payments he made prior to the parties' marriage.
- The 1991 Toyota 4Runner was premarital and any equity should not have been included in the marital estate.
- The parties' 2008 Toyota 4Runner was overvalued and was based "solely on Jessica's opinion."

- The premarital equity in his 401(k) was improperly included in the marital estate.
- He was "erroneously charged with using an additional \$53,000.00" borrowed from his 401(K) for a nonmarital purpose when it was used to pay off a marital vehicle and new windows on the marital home.
- The money in Robert's IRA was "double counted," because the funds had already been accounted for in the district court's valuation of the 401(k).
- A 401(k) early withdrawal penalty and tax assessment should have been included as marital debt.
- The Coinbase account was overvalued.
- The costs of his drug treatment should have been included as a marital debt.
- As a result of the foregoing, the equalization of the marital estate is incorrect.