FILED
JAN 25 1994
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 3-320 / 92-1665

IN RE THE MARRIAGE OF DIANE A. MCGLADE AND JOHN L. MCGLADE

Upon the Petition of
DIANE A. MCGLADE, n/k/a DIANE A. PEIN,

Appellant,

And Concerning
JOHN L. MCGLADE,

Appellee.

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Appeal from the Iowa District Court for Mills County, Leo Connolly, Judge.

The mother appeals the modification of the child visitation portions of the decree dissolving the parties' marriage. **AFFIRMED.**

Drew H. Kouris, Council Bluffs, for appellant.

Michael J. Murphy of Lyle A. Rodenburg, P.C., Council Bluffs, for appellee.

Considered by Oxberger, C.J., Hayden, J., and Critelli, S.J.*

*Senior judge from the 5th judicial district serving on this court by order of the Iowa Supreme Court.

HAYDEN, J.

Diane Pein, mother of Ricky McGlade, appeals the district court's order modifying visitation provisions of dissolution decree. On February 18, 1986, the district court dissolved the marriage of Diane Pein, formerly known as Diane McGlade, and John McGlade. The court granted the parties joint custody of their minor child, Ricky, born January 10, 1984. The court awarded Diane primary physical custody. The court awarded John visitation on alternate weekends and holidays and two weeks of summer visitation.

In 1989 the parties jointly petitioned the court for a modification of the visitation schedule. The court modified the decree by reducing the length of John's weekend visitations. The court reinstated all other portions of the visitation schedule.

On October 16, 1991, John filed a petition for modification of the dissolution decree. He sought increased visitation with Ricky. The matter proceeded to trial. John and Diane were the only witnesses at trial. John alleged Diane had been sabotaging his visitations. Diane claimed Ricky did not want visitation with John. The district court modified the decree by increasing the amount of John's visitations with Ricky.

Our review is de novo. Iowa R. App. P. 4. We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses. Iowa R.

App. P. 14(f)(7). We, however, are not bound by these determinations. Id.

To justify a modification of visitation rights, the petitioner must show there has been a change in circumstances since the filing of the dissolution decree. In re Marriage of Jerome, 378 N.W.2d 302, 305 (Iowa App. 1985). The burden upon the petitioner in a modification of visitation rights, however, differs from the burden upon him or her in a modification of custody. Id. The degree of change required in a modification of visitation rights is much less than the change required in a modification for custody. Id. (citing Donovan v. Donovan, 212 N.W.2d 451, 453 (Iowa 1973)); In re Marriage of Glass, 213 N.W.2d 668, 670 (Iowa 1973). The Iowa Supreme Court has stated the rationale behind this rule is the best interests of the child ordinarily require continuing association with his noncustodial parent unless the contrary is clearly shown. Donovan, 212 N.W.2d at 453 (citations omitted).

At the time the initial dissolution decree was filed in 1986, Ricky was only two years of age. The court set forth the following visitation:

> Until . . . Ricky . . . reaches the age of three and one half years, visitation shall begin at 9:00 a.m. on Saturday morning and continue until 5:00 p.m. on Saturday afternoon. After . . . Ricky . . . reaches the age of three and one half years, said visitations shall begin at 6:00 p.m. on Friday evening and continue until 6:00 p.m. the following Sunday. Furthermore, until the minor child of the parties reaches the age of three and one half years, [John] shall be allowed visitation on every Friday from 10:00 a.m. to 4:00 p.m.

Pursuant to the decree John had visitation with Ricky on ten holidays and for two weeks during the summer.

Ricky was almost five and one-half years old when the court modified a portion of the visitation schedule in 1989. The court modified the provision for alternate weekend visitation as follows:

> On the first weekend for visitation, said visitation shall begin at 5:00 p.m. on Friday evening and shall continue until 4:00 p.m. the next Saturday. Further, on the next weekend for visitation, that is two weeks later, Respondent shall have the child on Saturday only from 10:00 a.m. until 4:00 p.m.

John testified he had agreed to this visitation schedule because he worked on Sundays.

Ricky was almost nine years old at the time of this modification action in August 1992. In this modification action, the trial court expanded John's visitation, pursuant to his request, to increase the amount of his summer visitation to a total of four weeks. The court provided for visitation on a greater number of holidays for longer periods of time. The court reiterated and restated all provisions of the 1986 decree and 1989 modification decree not in conflict with the order.

The present age of Ricky, circumstances under which parties modified visitation schedule in 1989, and the possibility of establishing a better relationship between Ricky and his father warrant a modification of visitation as set forth by the trial court. See Donovan, 212 N.W.2d at 453. The best interests of Ricky necessitate this

visitation schedule. We affirm the trial court's decision in this case modifying visitation. Costs of this appeal are assessed to Diane.

AFFIRMED.