FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF ROSEMAREE JOHNSON AND RICHARD DALE JOHNSON

Upon the Petition of)
ROSEMAREE JOHNSON,)
Petitioner-Appellant,) Filed August 30, 1983
And Concerning)
RICHARD DALE JOHNSON,) 3-216 / 2-68896
Respondent-Appellee.)

Appeal from Cerro Gordo District Court - John F. Stone, Judge.

Former wife appeals from trial court's decree modifying former husband's alimony obligation. AFFIRMED.

Beck, Pappajohn & Shriver, Mason City, for petitioner-appellant.

R. Michael Sweesy, Mason City, for respondent-appellee.

Considered by Oxberger, C.J., and Donielson, Snell, Schlegel and Hayden, JJ.

DONIELSON, J.

Former wife appeals from trial court's decree modifying former husband's alimony obligation. She alleges that there had not been a substantial change in circumstances since the entry of the dissolution decree to justify a reduction in alimony. We affirm.

The December 1979 decree dissolving the marriage of Rosemaree and Richard Johnson awarded Rosemaree custody of the parties' three remaining minor children and directed Richard to pay child support of $200 per month per child, alimony of $250 per month for eleven months and $400 per month thereafter, and a lump sum property settlement of $5,000 over three years. The property settlement was to be a lien against the stock Richard owned in a skating rink he worked at.

At the time of the decree, Richard was working at a post office as well as at the skating rink; his total monthly take-home pay from the two jobs was $1,424.88. Rosemaree was working at Northwestern Bell, with a monthly take-home pay of $492; Bell, however, was closing its local office and Rosemaree had been given the option of relocating with Bell or finding other employment.

In November of 1981, Richard filed a petition for modification of the decree, requesting that his alimony and child support obligations be reduced. Rosemaree answered the petition by denying its operative allegations and requesting that the decree be modified instead by increasing alimony.

There was testimony at the hearing indicating that Richard had sold his skating rink stock because he could not meet his obligations under the decree without doing so. Without the income from the skating rink job, his monthly take-home pay was $1,266.96. From that amount, he was to pay $400 in monthly alimony and $400 in monthly child support ($200 per month per each of the two remaining minor children), or $800 per month total. In addition, he has monthly

living expenses of $892.40. In the stock sale, he received a down payment of $12,000 and would receive the $25,000 balance in monthly installments. Most, if not all, of the down payment was used to pay off the debt incurred in buying the stock in the first place. He was delinquent in child support, alimony and property settlement payments in the amount of $4,400. Rosemaree had not found a new job at Bell for which she was qualified, and she was receiving unemployment compensation of $704 per month. Only one of the parties' children was then still a minor.

The trial court reduced Richard's alimony obligation to $200 per month, based on its finding that there had been a material and substantial change of circumstances since the decree which warranted such a modification. The trial court denied Rosemaree's request to increase alimony and Richard's request to reduce child support, and it directed Richard to apply no less than $250 of the $1,000 payment he received each month on the skating rink stock sale first toward his debts totalling $2,327, and then toward his delinquencies in alimony and child support and the lump sum property settlement. This appeal followed.

Economic provisions of a dissolution decree, such as alimony, may be modified upon a showing of a substantial change in circumstances from the date of the original decree. Iowa Code § 598.21(8). We agree with the trial court that Richard sustained his burden of proving the required change in this case. Since the entry of the original decree, Richard has been forced to quit his part-time job at the roller rink and sell his stock in the rink in order to pay off his various debts and obligations. The stock sale will result in some capital gains income tax liability on Richard. Even considering his frugal standard of living, Richard has been unable to maintain his alimony, child support, and property settlement obligations under the decree. Richard testified that if his wages at the post office are garnished twice more to satisfy those obligations, he will lose his job there.

Under these circumstances, we believe the trial court was justified in reducing his alimony obligation to $200 per month. We also affirm the court's schedule for Richard's payment of his decretal obligations and his other debts from the proceeds of his sale of stock.

AFFIRMED.