FILED
DEC 23 1980
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE MARRIAGE OF BARBARA DIANN STRONG & JACK ALLEN STRONG

Upon the Petition of	)	
BARBARA DIANN STRONG,	)	Filed December 23, 1980
Petitioner-Appellee,	)	
And Concerning	)	
JACK ALLEN STRONG,	)	0-298 2-64358
Respondent-Appellant.	)	

Appeal from Benton District Court - Louis W. Schultz, Judge.

Respondent appeals from judgment modifying visitation privileges of parties' dissolution decree and seeks to reduce his child support payments. - AFFIRMED.

Morris L. Eckhard of Milroy & Eckhart, Vinton, for respondent-appellant.

Mark Mossman of Mossman & Mossman, Vinton, for petitioner-appellee.

Submitted to Oxberger, C.J., and Donielson, Snell, Carter, and Johnson, JJ.

Respondent-husband, Jack Strong, appeals from a judgment modifying the visitation privileges of the parties' dissolution decree. Jack also appeals from the trial court's refusal to reduce his child support payments. We affirm.

On August 23, 1975, Jack married Barbara Strong, now Barbara Boddiker. The parties lived in Vinton, Iowa. Their daughter Carrie was born on April 6, 1977. On September 21, 1978, the marriage was dissolved by a dissolution decree containing visitation provisions and ordering Jack to pay $160 per month in child support. After moving to Florida in the spring of 1979, Jack filed an application to modify the decree of dissolution, seeking modified visitation rights and a reduction in child support payments. Subsequent to the modification hearing the trial court issued a ruling modifying Jack's visitation rights. The net effect of the ruling is to change visitation periods from being shorter and more frequent to being longer and less frequent. The trial court failed to reduce Jack's child support payments.

Our review is de novo. Iowa R. App. P. 4. We are not bound by the trial court's findings of fact, but we give weight to them, especially regarding the credibility of witnesses. Iowa R. App. P. 14(f)(7).

The award of visitation rights is controlled by the best interests of the child. Green v. Sherman, 173 N.W.2d 843, 847 (Iowa 1970); we normally will not interfere with a trial court's determination of visitation rights unless there has been an abuse of discretion. Cummings v. Cummings, 248 Iowa 831, 836, 82 N.W.2d 676, 679 (1957). Visitation rights may be modified only on a showing of a change of circumstances. In re Marriage of Glass, 213 N.W.2d 668, 670 (Iowa 1973); Donovan v. Donovan, 212 N.W.2d 451, 453 (Iowa 1973). However, the change of circumstances required to be shown is much less extensive than in child custody changes. Id.

In reviewing the child support provisions of a dissolution decree, we consider the factors articulated in In re Marriage of Zoellner, 219 N.W.2d 517, 525 (Iowa 1974). Modification of a child support award is proper only when there has been a material change in the circumstances of the parties making it equitable that different terms be fixed. Glass, 213 N.W.2d at 671. A child support order will not be modified unless its enforcement will be attended by positive wrong or injustice as a result of the changed conditions. Id; Spaulding v. Spaulding, 204 N.W.2d 634, 635 (Iowa 1973). Modification should be based on a change of circumstances that is more or less permanent or continuous and not temporary. Mears v. Mears, 213 N.W.2d 511, 515 (Iowa 1973); Glass, 213 N.W.2d at 671; Spaulding, 204 N.W.2d at 635.

I. Jack contends that the trial court unfairly refused to grant him adequate visitation rights. A court should safeguard the feasible exercise of a parent's visitation rights when it awards custody of his child to another person. Willey v. Willey, 253 Iowa 1294, 1302, 115 N.W.2d 833, 838 (1962). Jack argues that because his move to Florida makes exercise of his visitation rights unfeasible, his rights should be expanded so as to enable him to have a three month summer visitation period and to exercise his visitation rights within the state of Florida.

In fact, the trial court did modify Jack's rights so as to make visitation more feasible under his changed circumstances. The trial court responded to his complaint by granting him less frequent but longer periods of visitation, in contrast to the more frequent but shorter visitation periods provided for in the original decree of dissolution.

We think the trial court reasonably refused Jack the opportunity to take Carrie to Florida for visitation until she reaches school age. The best interest of the child is the ultimate consideration in making visitation modifications. As of the time the trial court handed down its order, Carrie was only 2 1/2 years old. Traveling hundreds of miles on a plane without her mother to a strange place is likely not to have a salutary effect on a child of her tender years. Furthermore, Jack has no experience in caring for a young child and when employed would be leaving Carrie with a babysitter over an extended period of time.

The trial court reasonably refused to grant Jack visitation rights for a three month period. Such a visitation period would be too disruptive of the relation between Barbara and Carrie. See Black v. Black, 203 N.W.2d 121, 125 (Iowa 1972). Under the circumstances of this case we conclude that the trial court's order modifying Jack's visitation rights is reasonable and not an abuse of discretion.

II. Jack contends that the trial court unfairly refused to reduce his $160 per month child support payments. As of the time of the dissolution decree, Jack's monthly net income substantially exceeded his monthly net expenses. Two months prior to the modification hearing Jack's monthly net income was $806. His monthly expenses were approximately $847. As of the time of the modification hearing Jack was unemployed. Exaction of child support should be within the parent's ability to pay. See Prandy v. Prandy, 241 Iowa 1050, 1054, 44 N.W.2d 379, 381 (1950). A balance must be struck between the needs of the children and the parent's ability to pay. Weiland v. Weiland, 255 Iowa 477, 482, 122 N.W.2d 837, 840 (1963). A support order that leaves a

parent with little or nothing on which to live is unjust. See Cole v. Cole, 259 Iowa 58, 61-62, 143 N.W.2d 350, 352-53 (1966). Jack argues that the material decline in his financial position justifies a reduction in child support payments.

Jack's unemployment, however, is a temporary situation and, therefore, not one warranting a change in child support. Under the assumption that Jack is likely to secure a job with pay similar to the one from which he was laid off, we agree with the trial court that the fact that Jack's monthly expenses somewhat exceed his monthly net income does not justify reduction of child support. Included in Jack's expenses are a $190 per month payment on a car loan taken to buy a new Chevrolet and a $65 per month payment on a personal loan. We are not convinced that either loan was necessary. And Jack himself agreed at the modification hearing that the car payments are not more important than the child support payments. Jack also alleges that his move from Iowa to Florida increased his expenses and depressed his wages. Again, Jack was under no compulsion to make the move. Since Jack voluntarily caused his expenses to exceed his wages, we perceive no positive wrong or injustice in the trial court's failure to reduce his support payments.

Jack argues that his child support payments should be reduced because of a material change in Barbara's financial circumstances. Whereas prior to the modification hearing Barbara had a monthly net income of $640 and monthly expenses of $795, as of the time of the modification hearing, although Barbara was unemployed, she was remarried to Steven Boddicker, who had a monthly gross income of $1250 and monthly expenses of $1080. In addition, Steven received unemployment benefits for four months of the year, received $80 per month from his employer for eight months of the year, had recently been able to purchase a $35,000 house, and jointly held with Barbara a savings account containing $7000. Furthermore, Barbara normally deposited the $160 child support payments in a savings account. Jack contends that his child support payments should be reduced, because Barbara no longer has a need to receive them.

We reject Jack's argument. The law in Iowa is that where a stepfather takes into his home his wife's child by a former marriage which has ended in dissolution, he has no duty to support the child except to the extent that the child's being in his home may have increased the cost of the child's maintenance by reason of a higher living scale than that which prevailed during the marriage of the child's father and mother. Mears v. Mears, 213 N.W.2d 511, 519 (Iowa 1973). Jack has produced no evidence that Carrie

enjoys a higher standard of living now than when Jack and Barbara were married. Were we to reduce Jack's child support payments by reason of Steven's ability to support Carrie, in effect we would be obliging Steven to support Carrie, contrary to Iowa law. We therefore will not reduce Jack's child support payments.

Costs are assessed against Jack.

AFFIRMED.