FILED
AUG 2 4 1988
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF DONALD L. HILDEBRAND
AND JUDITH A. HILDEBRAND

Upon the Petition of)
DONALD L. HILDEBRAND,)
Petitioner-Appellant,)
And Concerning)
JUDITH A. HILDEBRAND,)
Respondent-Appellee.)

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8-311
87-1608

Appeal from the Iowa District Court for Dubuque County (No. DM 5118) - Alan L. Pearson, Judge.

Petitioner challenges trial court's refusal to modify his dissolution decree so as to award custody of his son to him. **AFFIRMED.**

Mark S. Beckman, of Pfeiler & Beckman, Dubuque, for the petitioner-appellant.

David J. Grace, of Davis, Grace, Harvey, Horvath, Gonnerman & Rouwenhorst, Des Moines, for the respondent-appellee.

Considered by Oxberger, C.J., and Sackett and Habhab, JJ.

SACKETT, J.

Petitioner-Appellant Donald L. Hildebrand challenges the trial court's refusal to modify his 1985 dissolution decree so as to award custody of his son Matthew, born in 1975, to him. The dissolution decree had placed sole custody of the child with Respondent-Appellee Judith A. Hildebrand. We affirm.

Both parties are loving and caring parents and were involved in their son's life before the dissolution and have been involved since. Donald contends he would make a proper custodian and the decree should be modified because he spends more time with his son than he did before the dissolution and his son has expressed a wish to live with him.

Donald has the burden to prove he can render superior care. In re Marriage of Frederici, 338 N.W.2d 156, 158 (Iowa 1983); In re Marriage of Grabill, 414 N.W.2d 852, 853 (Iowa App. 1987); In re Marriage of Phipps, 379 N.W.2d 26, 27 (Iowa App. 1985). Donald must show by a preponderance of the evidence there has been a substantial and permanent change in the circumstances since the date of the decree materially affecting the child's welfare. See In re Marriage of Mikelson, 299 N.W.2d 670, 671 (Iowa 1980); In re Marriage of Melton, 256 N.W.2d 200, 205 (Iowa 1977).

Custody of children who are receiving proper care should not be disturbed in absence of cogent or compelling reasons. In re Marriage of Deck, 342 N.W.2d 892, 895 (Iowa

App. 1983). Matthew has indicated he would like to live with his father. He does not express a strong preference. We consider the child's wishes in accordance with the dictates of In re Marriage of Ellerbrook, 377 N.W.2d 257, 259-60 (Iowa App. 1985). Children's preferences are relevant but not controlling. See In re Marriage of Gravatt, 371 N.W.2d 836, 840 (Iowa App. 1985).

We affirm the trial court.

Judith requests attorney fees on appeal. We award her $500.

AFFIRMED.