

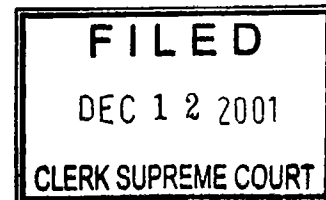
IN THE COURT OF APPEALS OF IOWA

No. 1-772 / 00-1563
Filed December 12, 2001

**IN RE THE MARRIAGE OF KENNETH EUGENE SIMBRO, JR.
AND MYONG S. SIMBRO**

**Upon the Petition of
KENNETH EUGENE SIMBRO, JR.,**
Petitioner-Appellant,

**And Concerning
MYONG S. SIMBRO,**
Respondent-Appellee.



Appeal from the Iowa District Court for Marion County, Paul R. Huscher,
Judge.

Kenneth Eugene Simbro, Jr. appeals a district court ruling granting
Myong S. Simbro's petition to modify the visitation provisions of the parties'
dissolution decree. **AFFIRMED.**

Martha L. Mertz of Mick & Mertz, Knoxville, for appellant.

Carmen E. Eichman, Des Moines, for appellee.

Considered by Sackett, C.J., and Mahan and Hecht, JJ.

MAHAN, J.

Petitioner Kenneth Simbro, Jr. appeals a district court ruling granting respondent Myong Simbro's petition to modify the visitation provisions of the parties' dissolution decree. Kenneth contends the district court's visitation award is excessive and places undue burdens on him, given the distance between the parties. We affirm.

Background Facts and Proceedings. The marriage of Kenneth and Myong Simbro was dissolved by decree on July 23, 1993. Myong did not appear at trial, and the district court awarded Kenneth sole custody of their minor child, Ronda, born July 17, 1989. Myong was awarded visitation, but the court reserved the questions of reasonable visitation and child support until Myong appeared before the court. Myong subsequently moved to Hawaii, and Kenneth moved to Kansas City, Missouri.¹

In October 1999 Myong filed an application to modify the custody and visitation provisions of the decree. Following trial in July 2000, the district court entered its decree awarding the parties joint custody of Ronda, but concluding it was in the child's best interest that she remains in Kenneth's physical care. The court awarded Myong eight weeks of summer visitation, alternate Christmas vacations, and spring breaks. Myong was ordered to pay for Ronda's flights to Hawaii, and was also ordered to pay monthly child support of \$223.55. Kenneth appeals.

¹ The jurisdiction of the Iowa court is not an issue.

Standard of Review. Our review of modification proceedings is de novo. *In re Marriage of Fox*, 559 N.W.2d 26, 28 (Iowa 1997). We give weight to the trial court's fact-findings, particularly when considering the credibility of witnesses, but they do not bind us. *Id.*

Visitation Schedule. Kenneth argues the district court's visitation award is excessive and places undue burdens on him, given the distance between the parties. We disagree. In establishing visitation rights, our governing consideration is the best interest of the child. *In re Marriage of Stepp*, 485 N.W.2d 846, 849 (Iowa Ct. App. 1992). Generally, liberal visitation rights are in the child's best interests. *Id.* Iowa Code section 598.41(1)(a) (1999) provides in pertinent part:

The court, insofar as is reasonable and in the best interest of the child, shall order the custody award, including liberal visitation rights where appropriate, which will assure the child the opportunity for the maximum continuing physical and emotional contact with both parents

Myong is a parent who is also a joint legal custodian. As Ronda's joint legal custodian, Myong certainly has the right to continuing physical and emotional contact with Ronda and is entitled to share the rights and responsibilities involved in raising her. See *In re Marriage of Holub*, 584 N.W.2d 731, 732 (Iowa Ct. App. 1998). The visitation schedule grants Myong substantial time with Ronda. The restrictive nature of Kenneth's requested visitation fails to promote the goal advanced by Iowa Code section 598.41(1)(a). The schedule set by the district court is reasonable and is affirmed.

AFFIRMED.