IN THE COURT OF APPEALS OF IOWA

No. 2-099 / 91-1277

IN RE THE MARRIAGE OF DAVID LOVELL AND ROSE MARIE LOVELL

FILED
JUL 30 1992
CLERK SUPREME COURT

Upon the Petition of

DAVID LOVELL,

Petitioner-Appellee,

And Concerning

ROSE MARIE LOVELL,

Respondent-Appellant.

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

The district court declined to modify a dissolution decree, and the wife has appealed. **AFFIRMED.**

Richard D. Crotty, Council Bluffs, for appellant.

John W. Kellogg and Jack J. White of Kellogg & Kellogg, P.C., Missouri Valley, for appellee.

Considered by Schlegel, P.J., and Hayden and Sackett, JJ.

PER CURIAM

The only issue in this appeal is whether respondent-appellant Rose Marie Lovell has met the burden of proof necessary to establish a change in circumstances warranting a modification of a dissolution decree. Rose Marie contends she has met the necessary burden, and the decree should be modified to fix child support in accordance with the child support guidelines. We disagree and affirm.

The marriage of Rose Marie and petitioner-appellee David Lovell was dissolved in 1983. The two children of the marriage were placed in David's physical care. In 1989, the dissolution decree was modified to award Rose Marie physical care of the younger child and to require David to pay child support of $125 a month for the younger child. Rose Marie was not required to pay child support to David for the older child in his care.

In 1991, Rose Marie sought another modification. She requested an increase in the child support obligation for the younger child. The trial court found she had not shown the necessary change of circumstances to support a modification, and her petition was dismissed.

On appeal, she contends we should find she has met her burden, we should modify the decree, and fix child support in accordance with the child support guidelines. We affirm.

Modification of a dissolution decree is only allowed when there has been a material and substantial change in circumstances since the original decree. Mears v. Mears, 213 N.W.2d 511, 514 (Iowa 1973); In re Marriage of Kern, 408 N.W.2d 387, 389 (Iowa App. 1987).

Not every change in circumstances is sufficient. The party seeking the change must show the continued enforcement of the original decree would, as a result of the changed conditions, result in positive wrong or injustice. See In re Marriage of Vetternack, 334 N.W.2d 761, 762 (Iowa 1983). Additionally, the change in circumstances must be permanent or continuous rather than temporary. Id. Any change in financial conditions must be substantial and must not have been in the contemplation of the trial court when the original decree was entered.

We agree with the trial court Rose Marie has not met her burden. The parties had substantially the same earnings they did at the time of the prior modification. The older child is now a college student, David is making substantial contributions to his support, and is paying all of his tuition. David also pays for his medical insurance. The younger child has had surgery since the last modification, and not all of her bills were paid by insurance. However, the evidence is not clear how much was not paid. We agree with the trial court that Rose Marie has failed to meet the necessary burden.

AFFIRMED.