IN THE COURT OF APPEALS OF IOWA

FILED
AUG 29 1985
CLERK, SUPREME COURT

IN RE THE MARRIAGE OF NANCY M. WILSON AND DONALD A. WILSON

Filed August 29, 1985

UPON THE PEITION OF
**NANCY M. WILSON,**

Petitioner-Appellee,

AND CONCERNING
**DONALD A. WILSON,**

Respondent-Appellant.

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Appeal from the Iowa District Court for Linn County - Paul J. Kilburg, Judge.

Respondent appeals from the order modifying the dissolution decree of the parties. AFFIRMED.

Judith A. Grove, and Joe H. Harris, of Glasson, Harris & Grove, Cedar Rapids, for respondent-appellant.

Stephen B. Jackson, Cedar Rapids, for petitioner-appellee.

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

**SACKETT, J.**

A decree dissolving the marriage of Donald and Nancy Wilson was entered in November of 1979. Custody of the two children, born in 1975 and 1977 respectively, was awarded to Nancy. Donald was given reasonable visitation subject to his giving Nancy reasonable notice of said visitation. In addition to the reasonable visitation rights, Donald was allowed at his option to have the children on the first and third weekends of each month from 9:00 a.m., Saturday morning until 9:00 p.m., on Sunday evening. It was also provided that Donald have the children for two weeks in the summer, and if the parties agreed an additional week. The decree further provided for Donald to have the odd number of eight enumerated holidays in odd years and the even numbered holidays in even years.

Donald was ordered to pay $200 per month support for the children until a year following the entry of the decree when the support increased to $225. The support was to be decreased by one-half when the older child was no longer eligible for support. It was provided Donald could claim the younger child as a dependent if his support was current. In addition, Donald was ordered generally to maintain health, accident, and hospitalization insurance on the children, pay a $100 a year clothing allowance, and pay 50% of the childrens' medical and dental bills not covered by insurance. Beginning on January 1, 1981, the child support was ordered to increase in the ratio that the Consumer Price Index for the month of December preceding the adjustment bears to the Consumer Price Index for the month of December next proceeding.

At the time of the decree was entered Nancy was not employed outside the home and Donald was driving a truck at Kings Concrete earning $10.10 per hour. Kings paid medical insurance premiums for his entire family. Since the decree, Donald lost his job at Kings, went through a period of unemployment, and currently has a truck driving job paying $8.30 per hour and grosses $1,438.66

monthly. His current employer does not provide family medical coverage. In addition to his truck driving job, Donald earns $5,000 annually doing snow removal.

In 1983 Nancy moved to California with the children and Donald had no visitation during that period. Nancy again lives in Iowa. Donald subsequently filed an application to modify the decree to increase the visitation, prevent Nancy from leaving the state with the children, and decrease his support obligation. Additionally, Donald sought to have Nancy found in contempt for violating the visitation order.

The matters came on for hearing together and the trial court entered an order finding Nancy in contempt for violating the visitation provisions of the decree but allowed her the opportunity to purge herself of contempt by strictly complying with the visitation provisions of the decree for one year. The trial court refused to modify the visitation schedule of the original decree but did order that Nancy not remove the children from the state for longer than two weeks without prior approval of Donald or the court.

The court modified the cost of living increase to provide for an increase only if Donald's salary increased and then to limit the increase to the lesser of the increase in the Consumer Price Index or the increase in Donald's salary. The $100 annual clothing allowance was deleted.

Donald has appealed contending (1) the trial court should have increased his visitation and (2) the court should have ordered a greater reduction in his child support obligation.

## I. Visitation

Donald argues that the trial court has charged him with the burden incumbant on one seeking a modification of custody rather than the burden of one

seeking to modify for change of visitation. Our review is de novo. Iowa R. App. P.4.

To justify a modification of visitation rights, there must be demonstrated a change of circumstances since the dissolution decree, but such change may be less extensive than would be necessary to obtain custody. In Re Marriage of Glass, 213 N.W.2d 668, 670 (Iowa 1973). Donald was granted liberal visitation rights in the original decree. Nancy was found in contempt for failure to grant Donald his visitation rights. We strongly disapprove of custodial parents who jeopardize a child's rights to visit with their noncustodial parent. The trial court's order has made it clear to Nancy that Donald should be allowed visitation with his children and did not determine Nancy's behavior to support a modification of visitation at this time. We agree. Nancy, however, would be ill-advised to continue withholding visitation in the future not only because of the finding of contempt but also because her failure to do so may result in possible loss of custody.

## II. Child Support

Donald's adjusted gross income was $21,850 in 1983. It had been $23,741 in 1979. We recognize Donald must now pay the children's medical insurance premiums rather than having them paid by his employer. The trial court has given him some relief by way of reduction in the cost of living clause and clothing allowance. The record does not support a further modification. The trial court is affirmed.

AFFIRMED.