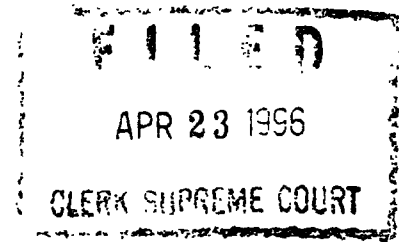


IN THE COURT OF APPEALS OF IOWA

No. 6-211 / 95-1635



**IN RE THE MARRIAGE OF MICHELLE JO CHANDLER
AND STEPHEN RUSSELL CHANDLER**

Upon the Petition of
MICHELLE JO CHANDLER,

Appellee,

And Concerning
STEPHEN RUSSELL CHANDLER,

Appellant.

Appeal from the Iowa District Court for Wapello County, James P. Rielly,
Judge.

Respondent appeals the district court ruling denying his petition to modify the
visitation and child support provisions of the parties' dissolution decree. **AFFIRMED.**

R.T. Starken of Alexander & Starken, Ottumwa, for appellant.

Patrick F. Curran of Vinyard & Curran, Ottumwa, for appellee.

Heard by Sackett, P.J., and Habhab and Huitink, JJ.

HUITINK, J.

Stephen Chandler appeals the district court ruling denying his petition to modify the visitation and child support provisions of the parties' dissolution decree. We affirm.

Stephen and Michelle Chandler's marriage was dissolved in 1991. Pursuant to the decree, Michelle was awarded primary physical care of the minor children, and Stephen was ordered to pay \$200 per month per child in child support. The parties have two children, Matthew, born January 3, 1987, and Michael, born October 6, 1989.

In May of 1994 Stephen filed a petition to modify the original decree requesting a change in visitation and reduction in child support. At trial, Stephen maintained Michelle had agreed to the proposed modification of his visitation schedule and reduction of his child support. Michelle, however, denied having made such an agreement and submitted a proposed visitation schedule different from that allegedly agreed upon by the parties. Stephen also requested a reduction in his child support obligation arguing that his construction business did not generate sufficient income for him to maintain his current child support payments. The district court ruled Stephen had introduced insufficient evidence to justify a modification of the current visitation schedule and child support. Following denial of his rule 179(b) motion and motion for a new trial, Stephen appeals.

Our review of this equitable proceeding is de novo. Iowa R. App. P. 4. Although we are not bound by the district court's findings of fact, we do give them deference, particularly when the credibility of witnesses is implicated. *In re Marriage of Brown*, 487 N.W.2d 331, 332 (Iowa App. 1992).

Stephen first challenges the district court's failure to modify the visitation provisions of the parties' dissolution decree. To justify a modification of visitation rights, the applicant must show there has been a change in circumstances since the filing of the decree. *Nicolou v. Clements*, 516 N.W.2d 905, 906 (Iowa App. 1994). In cases involving modification of visitation as compared to child custody changes, the general rule is that a much less extensive change of circumstances need be shown in visitation right cases. *Donovan v. Donovan*, 212 N.W.2d 451, 453 (Iowa 1973).

We believe Stephen has failed to show any change in circumstances meriting modification of his visitation rights. Although he contends the parties agreed upon a modified visitation schedule, we find no such agreement existed between the parties. Instead, Michelle and Stephen each submitted separate proposed visitation schedules reflecting a significant difference of opinion between the parties. Aside from this alleged agreement, Stephen has failed to show any change of circumstances sufficient to merit modification.

We further find no merit in Stephen's contention the district court erred in refusing to reduce his child support obligation. Child support orders may be modified

only where there has been a substantial change in circumstances meriting modification. Iowa Code § 598.21(8) (1993); *In re Marriage of Bolick*, 539 N.W.2d 357, 359 (Iowa 1995). The burden rests on the party seeking modification to establish a change of circumstances by a preponderance of the evidence. *Thayer v. Thayer*, 286 N.W.2d 222, 223 (Iowa App. 1979). We are guided in this determination by a number of well-established principles. These include: (1) There must be a substantial change in circumstances occurring after entry of the decree; (2) not every change in circumstances is sufficient; (3) it must appear that continued enforcement of the original decree or a result of the changed conditions would result in a positive wrong or injustice; (4) the change in circumstances must be permanent or continuous rather than temporary; (5) the change in financial conditions must be substantial; and (6) the change in circumstances must not have been within the contemplation of the trial court when the original decree was entered. *In re Marriage of Vetterlack*, 334 N.W.2d 761, 762 (Iowa 1983).

Stephen claims his construction business provides insufficient income to sustain his support obligation. We, however, find nothing in the record to indicate a substantial change in circumstances warranting modification. Accordingly, we conclude it was not error for the district court to refuse modification of Stephen's child support obligation.

We have considered all of Stephen's claims and find them to be either covered by this opinion or without merit. We affirm the decision of the district court in its entirety.

AFFIRMED.