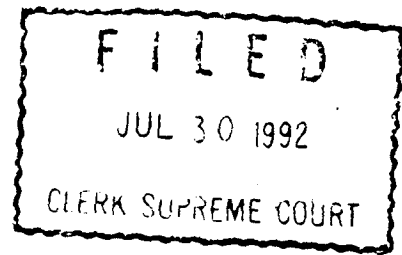


IN THE COURT OF APPEALS OF IOWA

No. 1-632 / 91-696



IN RE THE MARRIAGE OF NED ERIC DIETIKER AND
CONSTANCE ANN DIETIKER

Upon the Petition of

NED ERIC DIETIKER,

Appellant,

And Concerning

CONSTANCE ANN DIETIKER,

Appellee.

Appeal from the Iowa District Court for Linn County,
Thomas M. Horan, Judge.

The husband appeals a modification of the child support
provision of the parties' dissolution decree. **REVERSED.**

Franklin R. York, Cedar Rapids, for appellant.

Richard G. Hileman, Jr., Cedar Rapids, for appellee.

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

SCHLEGEL, P.J.

Ned and Constance Dietiker were married in April 1978. They have two children: Brandy, born in October 1978, and Anthony, born in August 1980.

The parties' marriage was dissolved in January 1985. The dissolution decree incorporated the parties' stipulation. The parties agreed to joint legal custody with Constance having physical care of the children. Ned was ordered to pay child support of \$30 per child per week, or a total of \$260 per month. At that time Ned had gross income of \$28,528 per year, and Constance had gross income of \$23,358 per year.

In November 1990 Constance filed a petition for modification of the dissolution decree. She asked that Ned's child support obligation be increased due to an increase in the cost of living. She also claimed Ned had a greater ability to pay child support.

A hearing was held in April 1991. The evidence showed both parties had the same employment they had held at the time of the dissolution. Both parties have remarried. Ned now has gross income of \$27,975 per year. Ned also receives \$139 per month from part-time employment. Constance's gross income had increased to \$27,090 per year.

The district court found that the unanticipated effects of inflation coupled with the increased costs of raising the children constituted a substantial and material change in circumstances. The court modified the parties'

dissolution decree to increase Ned's child support obligation to \$256 per child per month, or a total of \$512 per month. The court did not consider Ned's part-time employment in making this award. Ned has appealed.

Our scope of review in dissolution cases is de novo. In re Marriage of Craig, 462 N.W.2d 692, 693 (Iowa App. 1990). While not bound by the trial court's determination of factual findings, we will give them considerable weight, especially when considering the credibility of witnesses. Id.

The party seeking modification must establish a substantial change in circumstances by a preponderance of the evidence. In re Marriage of Mueller, 400 N.W.2d 86, 88 (Iowa App. 1986). The changed circumstances must be material and substantial, not trivial, more or less permanent or continuous, not temporary, and must be such as were not within the knowledge or contemplation of the court when the decree was entered. In re Marriage of Bergfeld, 465 N.W.2d 865, 870 (Iowa 1991). A decree is not to be modified unless its enforcement will be attended by positive wrong or injustice as a result of changed conditions. Id. at 869.

In our de novo review, we determine Constance has failed in her burden to show a substantial change in circumstances since the time of the original decree. At the hearing Constance testified the expenses for the children's clothes, food, and hobbies had increased. She

also agreed she should have anticipated these expenses would increase as the children got older. We find these increased costs were within the contemplation of the court when the decree was entered. Furthermore, we find the financial condition of the parties has not substantially changed since the time of the original decree.

We conclude there is not sufficient grounds to modify the dissolution decree. We must therefore reverse the district court's modification order. Costs of this appeal are assessed to Constance.

REVERSED.