FILED
JUN 30 1981
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF LYLE PHILLIP SCHEIB and MARILYN L. SCHEIB

Upon the Petition of)
LYLE PHILLIP SCHEIB,)
Petitioner-Appellant,)
And Concerning)
MARILYN L. SCHEIB,)
Respondent-Appellee.)

Filed June 30, 1981

1-115
3-65215

Appeal from Linn District Court - Robert Osmundson, Judge.

Petitioner-husband appeals trial court's order denying his application to modify the parties' dissolution decree by awarding him custody of their youngest child. AFFIRMED.

David S. Nelson of Nelson, Fassler & Nelson, Cedar Rapids, Iowa, for petitioner-appellant.

Guy Booth of Dumbaugh, Booth, Gross & Chapman, Cedar Rapids, Iowa, for respondent-appellee.

Heard by Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Petitioner-husband appeals trial court's order denying his application to modify the parties' dissolution decree by awarding him custody of their youngest child. Our review is **de novo.** Iowa R. App. P. 4. We affirm.

The marriage of Lyle and Marilyn Scheib was dissolved by decree on May 26, 1977. The parties agreed that Marilyn would have custody of Heather, their youngest child (born April 8, 1972) and that Lyle would have custody of the other four children. On December 12, 1979, Lyle filed this application to modify the custody decree by awarding custody of Heather to him. He alleged that there had been a substantial and material change of circumstances since the entry of the decree in that Marilyn had suffered a mental breakdown in 1979 and consequently is no longer physically or emotionally able to give proper care to Heather. The trial court's order of April 25, 1980, denied Lyle's application, finding that he did not satisfy his burden of proving the necessary change of circumstances. This appeal followed.

To justify modification of a child custody decree, the applicant must show by a preponderance of the evidence that conditions since the entry of the decree have so materially and substantially changed that custody should be awarded to the applicant. Hobson v. Hobson, 248 N.W.2d 137, 139 (Iowa 1976). The change in circumstances must be more or less permanent or continuous and it must relate to the child's welfare. Id. at 140. We agree with the trial court that Lyle did not sustain his burden of proof in this case. His main argument appears to be that Marilyn's past mental problems render her currently unable to care for Heather and he points to such occurrences as Heather occasionally coming to school in dirty clothes and unkempt hair. The record, however, also contains evidence that Marilyn's mental condition has stabilized since her 1979 breakdown. Nor are we convinced that the other factors referred to by Lyle amount to the requisite material and substantial change in circumstances to justify changing Heather's custody. We affirm the trial court's decision.

AFFIRMED.