FILED
JUN 26 1984
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF WAYNE H. BRINKMAN AND CYNTHIA A. BRINKMAN

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Upon the Petition of)
WAYNE H. BRINKMAN,)
Petitioner-Appellant,)
And Concerning)
CYNTHIA A. BRINKMAN,)
Respondent-Appellee.)

Filed June 26, 1984

4-224
83-1332

Appeal from the Iowa District Court for Cedar County - Max R. Werling, Judge.

Petitioner appeals from the trial court's refusal to modify the child support provisions of the parties' dissolution decree. AFFIRMED.

Arthur L. Buzzell and Thomas H. Preacher of Newport & Buzzell, Davenport, Iowa, for petitioner-appellant.

Gary J. Rolfes of Petersen, Petersen & Eddy, Clinton, Iowa, for respondent-appellee.

Considered by Oxberger, C.J., Donielson and Schlegel, JJ.

SCHLEGEL, J.

Petitioner, Wayne Brinkman, appeals from the trial court's refusal to modify the child support provisions of the parties' dissolution decree. The trial court found that the prerequisite showing of a change in circumstances was absent and denied the relief requested. We affirm.

I. Our review is de novo. Mears v. Mears, 213 N.W.2d 511, 515 (Iowa 1973). Nevertheless, the trial court has considerable discretion in determining whether modification is warranted and that discretion will not be disturbed on appeal unless there is a failure to do equity. In re Marriage of Vetternack, 334 N.W.2d 761, 762 (Iowa 1983).

II. The principles governing modification were summarized by the court in In re Marriage of Vetternack, 334 N.W.2d at 762, and need not be repeated here. The burden rests on the petitioner for modification of child support provisions of a dissolution decree to establish a change of circumstances by a preponderance of the evidence. Mears v. Mears, 213 N.W.2d at 515. Wayne petitioned for a reduction in the child support payments and a modification of his liability for uninsured medical expenses.

The parties have three children, one preschool and two elementary school aged, from their marriage which was dissolved on January 3, 1983. At that time Wayne was laid off from his factory job; in lieu of his regular salary of $30,900 per year, he was receiving unemployment benefits of about $373 per week. Cynthia was then earning about $40 per week as a babysitter at the time of the decree. However, the dissolution court specifically found that, based upon her training and ability, Cynthia had an income capacity of approximately $9,000 to $10,000 per year. Wayne also had a part-time small engine business which had generated income in 1980 and 1981 of $93 and $616 respectively.

The January 1983 dissolution decree directed Wayne to pay a total of $400 per month in child support for the parties' three children while he was laid off; when he returned to full-time work the child support obligation was to increase to a total of $700 per month. The decree also directed Wayne to maintain health insurance for the children and to assume the responsibility for any of the children's medical expenses which were not covered by insurance.

After entry of the decree, Wayne was recalled to full-time employment at his former salary of $30,900. At the same time, he discontinued his part-time business. Also, Cynthia obtained full-time employment at a net salary of $150 per week.

Wayne filed an application for modification of the decree in June, 1983, relying upon his discontinuation of his part-time business and Cynthia's new job as constituting a substantial change in circumstances since the decree entered in January.

Wayne's discontinuation of his part-time business was clearly voluntary. A voluntary reduction in income cannot be the basis for an application to modify support obligations. In re Marriage of Glass, 213 N.W.2d 668, 671 (Iowa 1973). Furthermore, the resultant loss in income is not substantial. A change in financial condition must be substantial. In re Marriage of Vetternack, 334 N.W.2d at 762.

Cynthia's net income has increased from approximately $2,080 to approximately $7,800. Clearly this increase in income is within Cynthia's expected earning ability at the time of trial. The change in circumstances relied upon must not have been within the contemplation of the trial court when the original decree was entered. Id. at 762.

Wayne has failed to carry his burden to show a substantial change of circumstances not within the contemplation of the trial court since the decree was entered. Accordingly, the trial court's decision refusing modification is affirmed.

AFFIRMED.