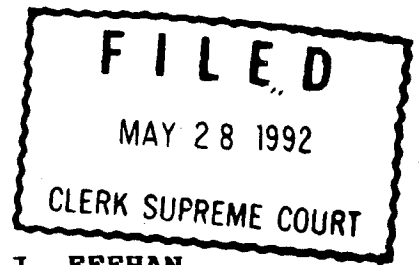


IN THE COURT OF APPEALS OF IOWA

No. 1-574 / 91-806



IN RE THE MARRIAGE OF CAROL L. FEEHAN AND TERRY J. FEEHAN

Upon the Petition of

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CAROL L. JONES, f/k/a CAROL L. FEEHAN,

Appellant,

And Concerning

TERRY J. FEEHAN,

Appellee.

Appeal from the Iowa District Court for Wapello County,
Dan F. Morrison, Judge.

Petitioner challenges district court's award of child
support following the modification of the parties'
dissolution decree. **AFFIRMED.**

John A. Pabst of Clements, Pabst, Hansen & Maughan,
Albia, for appellant.

Robert M. Box of Box & Box, Ottumwa, for appellee.

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

DONIELSON, J.

The marriage of Terry Feehan and Carol Jones was dissolved on September 30, 1977. The dissolution decree placed primary physical care of the parties' two children with Carol and ordered Terry to pay child support in the amount of \$20 per week per child. On October 31, 1980, the decree was modified to increase Terry's child support obligation to \$25 per week per child.

On December 11, 1989, the parties again modified their decree, by mutual agreement. The modified decree granted Terry physical custody of their son, Mathew, and their daughter, Melissa, remained with Carol. Carol's support obligation for Mathew was determined to be \$30 per week, and Terry's support obligation for Melissa was set at \$75 per week. Therefore, the decree provided Terry was to pay the difference, \$45 per week, to Carol for the support of Melissa so long as the parties were obligated to pay child support to one another.

Melissa later expressed a desire to live with Terry, and Terry filed the current application to modify the parties' dissolution decree. He requested placement of Melissa and child support.

On March 18, 1991, the district court modified the parties' decree and awarded physical placement of Melissa to Terry. The court found no reason to deviate from the child support guidelines in setting Carol's support obligation and ordered Carol to pay \$120 per month per

child. The court rejected Carol's request that her child support obligation be established at ten to fifteen percent of her income. Carol reasoned that Terry's child support had equalled approximately ten to fifteen percent of his income when she had primary physical care of both children, and it would, therefore, be fair to make her pay that percentage of her income to him.

In this equity action, our review is de novo. Iowa R. App. P. 4. We have a duty to examine the entire record and adjudicate anew rights on the issues properly presented. In re Marriage of Steenhoek, 305 N.W.2d 448, 452 (Iowa 1981). We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses, but we are not bound by them. Iowa R. App. P. 14(f)(7).

Certainly, Carol has a common law and statutory duty to support her children, In re Marriage of Hoak, 364 N.W.2d 185, 189 (Iowa 1985), and the amount of that obligation should be determined in light of each parent's ability to contribute. In re Marriage of Bornstein, 359 N.W.2d 500, 504 (Iowa App. 1984). Each parent's ability to contribute must be determined using the child support guidelines. In re Marriage of Powell, 474 N.W.2d 531, 533 (Iowa 1991). Exhibit A of the guidelines does provide the court with a means to adjust the amount of support dictated by the guidelines if it finds "an adjustment is necessary to

prevent 'substantial injustice.'" In re Marriage of LaLone, 469 N.W.2d 695, 696 (Iowa 1991).

The question presented by this case is whether a substantial injustice, sufficient to warrant a deviation from the guidelines, would result if Carol's support obligation were based on a greater percentage of her income than the percentage Terry was required to pay of his income from 1975 to 1989. We do not believe so.

The percentage of income Terry paid in child support prior to the supreme court's adoption of the new guidelines is wholly irrelevant in determining Carol's present child support obligation. The trial court's calculation of Carol's obligation was entirely appropriate in this case. We affirm.

The costs of this appeal are taxed to Carol.

For all the reasons stated, the judgment of the district court is affirmed.

AFFIRMED.