



IN THE COURT OF APPEALS OF IOWA
IN RE THE MARRIAGE OF JOHN J. POKRZYWINSKI and CAROLINE G.
POKRZYWINSKI

Upon the Petition of

JOHN J. POKRZYWINSKI,

Filed May 20, 1977

Appellant,

And Concerning

170
2-59347

CAROLINE G. POKRZYWINSKI,

Appellee.

Appeal from Jasper District Court - M. C. Herrick, Judge.

Appeal from order modifying marriage dissolution decree
transferring custody of children from petitioner to respondent.
Reversed and remanded.

Gordon Liles, of Fort Madison, for appellant.

Thomas Hyland, Hyland & Laden, P.C., of Des Moines, for
appellee.

Submitted to Allbee, C.J., and Donielson, Snell, Oxberger
and Carter, JJ.

PER CURIAM

John Pokrzywinski appeals trial court's modification of his dissolution decree to change custody of his two minor children to Caroline Pokrzywinski. Caroline's earlier unsuccessful attempt to modify the decree is reported in *In re Marriage of Pokrzywinski*, 221 N.W.2d 283 (Iowa 1974).

At the outset, we do not condone John's failure to obtain court approval of his move outside Iowa to Galesburg, Illinois, and hereby caution him to strictly obey the terms of the decree. However, given the circumstances revealed by the record and the proximity of Galesburg, we do not find this to be a justification for modification of the decree. Likewise, we find Caroline's other assertions of a change in circumstances are not sufficiently material for change of custody.

We have examined with care the transcript in this proceeding and have concluded that Caroline's evidence failed to show any substantial or material change in circumstances affecting the children such as to justify a modification of the decree. *See In re Marriage of Pokrzywinski*, supra.

Custody now being resolved the best interests of the children will be served through John's encouragement and cooperation in regular visitation between them and Caroline and by her aid in the financial support of the children to the extent she is able.

John also complains of trial court's allowance of \$1000 for Caroline's attorney fees. Trial court's allowance of attorney fees in a proceeding of this type was manifest error. *Dworak v. Dworak*, 195 N.W.2d 740, 743 (Iowa 1972).

Trial court's judgment is reversed and remanded for entry of a decree consistent with this opinion and with directions that evidence be taken solely for the purpose of deciding what amount, if any, Caroline should contribute to the support of her children.