

**FILED**

FEB 24 1981 232

CLERK SUPREME COURT

**IN THE COURT OF APPEALS OF IOWA**

**IN RE THE MARRIAGE OF ALETA M. LEVERMANN AND BERNARD L. LEVERMANN**

|                              |   |                                |
|------------------------------|---|--------------------------------|
| Upon the Petition of         | ) |                                |
| <b>ALETA M. LEVERMANN,</b>   | ) |                                |
| Petitioner-Appellee,         | ) | Filed February 24, 1981        |
| And Concerning               | ) |                                |
| <b>BERNARD L. LEVERMANN,</b> | ) |                                |
| Respondent-Appellant.        | ) | <u>0-458</u><br><u>2-64934</u> |

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Appeal from Mills District Court - Leo F. Connolly, Judge.

Respondent-husband appeals from modification of the child support provisions in the parties' dissolution decree. **AFFIRMED.**

Curtis Hewett of Smith, Peterson, Beckman & Willson, Council Bluffs, for respondent-appellant.

H. Walter Green, Glenwood, for petitioner-appellee.

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

## PER CURIAM

Respondent-husband appeals from modification of the child support provisions in the parties' dissolution decree. He claims that the children's desire to attend college and the fact that he obtained employment after the original decree do not constitute a substantial and material change of circumstances justifying modification of the decree. Our review is *de novo*. Iowa R. App. P. 4. We affirm.

The marriage of Bernard and Aleta Levermann was dissolved by decree on May 15, 1972. Custody of their two sons, then nine and eleven years old, was awarded to Aleta. At that time Bernard was unemployed; however it was then ordered that, upon obtaining regular employment, he should pay at least 30% of his gross earnings to Aleta for child support. She filed this application for modification of the child support provisions on May 1, 1979. The trial court awarded her child support of \$175 per month until both sons reach majority, marry, or become self-supporting. As long as the sons remain unmarried, however, support will continue while they are between the ages of eighteen and twenty-two and are attending school as defined in section 598.1(2), The Code. Bernard appeals that modification order.

Child support awards may be modified only upon a showing of a material and substantial change in circumstances since the date of the original decree. Mears v. Mears, 213 N.W.2d 511, 514 (Iowa 1973). The changed circumstances must be such that they were not within the knowledge or contemplation of the court when the decree was entered. Id. at 515. We find no reason to disturb the trial court's order. At the time of the decree, Bernard had only casual employment, earning approximately \$5,000 in 1972, whereas his current annual income exceeds \$11,000. Although precedents are admittedly of little value in cases like this, In re Marriage of Beeh, 213 N.W.2d 170, 173 (Iowa 1974), we note with interest that in Sandler v. Sandler, 165 N.W.2d 799 (Iowa 1969), the court found that an increase of \$825 in the ex-husband's net income in addition to one child's college expenses constituted a material change of circumstances justifying a modification of child support. As to the \$175 payments ordered by the trial court, they may be sustained not only on the basis of a change of circumstances but also on the basis of the escalation clause contained in the original decree. As to the ordered college expenses, the older son is now attending Bellevue College and the younger son has also indicated an interest in further education. It is clear that the trial court may order support to continue while the children are between the ages of eighteen and twenty-two and

attending school pursuant to section 598.1(2), The Code, even though the children are not yet eighteen years old at the time of the original decree. In re Marriage of Vrbn, 293 N.W.2d 198, 203 (Iowa 1980). We affirm the trial court's order.

AFFIRMED.