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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF PENNY JO JEDELE AND RODNEY PAUL JEDELE

Upon the Petition of	)	
PENNY JO JEDELE,	)	
Petitioner-Appellee,	)	Filed March 31, 1987
And Concerning	)	
RODNEY PAUL JEDELE,	)	7-88 86-1192
Respondent-Appellant.	)	

Appeal from the Iowa District Court for Hardin County (No. DM 4-66) - Carl E Peterson, Judge.

Respondent former husband appeals from the trial court's ruling on his application for modification of the decree dissolving the parties' marriage, asserting that there has been a substantial change of circumstances since the decree which warrants a reduction in his child support obligation, and that his visitation with the parties' children, as modified by the trial court, is inadequate. **AFFIRMED.**

Michael A. Smith of Lundy, Butler & Lundy, Eldora, for appellant.

Lynn J. Wiese of Barker, McNeal, Wiese & Holt, Iowa Falls, for appellee.

Considered by Donielson, P.J., and Snell and Sackett, JJ.

PER CURIAM

On August 1, 1984, Penny and Rodney Jedele were granted a dissolution of their marriage by the District Court for Hardin County. The district court, as part of the dissolution decree, established a joint custody situation with primary physical care of the couple's two minor children, Jason and Paul, awarded to Penny. Rodney was awarded visitation on alternative weekends, alternative Tuesday evenings, alternative holidays, and three weeks in the summer. Rodney was ordered to pay $475 in child support per month. On October 4, 1985, Rodney filed an application for modification, seeking a reduction in child support obligations. Rodney filed another application for modification on February 10, 1986, seeking an enlargement of his visitation rights. The applications were consolidated for trial which commenced on April 9, 1986. The district court filed its findings, conclusions, and order on April 21, 1986, wherein the court found a change in circumstances sufficient to allow it to restructure the visitation arrangement. The district court, however, found that no change in circumstances had occurred with respect to Rodney's support obligations and refused to modify the original decree in that regard. The court did relieve Rodney of his support obligations for each month of August as the modified decree granted him visitation for thirty days during that month. Following largely unsuccessful posttrial motions, Rodney brought this appeal. Our review is de novo. Iowa R. App. P. 4. Although we give weight to the findings of fact made by the district court, we are not bound by them. Iowa R. App. P. 14(f)(7).

Our authority to modify dissolution decrees is grounded in both statute and the cases. Iowa Code section 598.21(8) (1985), as amended by Act of May 23, 1985, Chap. 178, § 7, states that "[t]he court may subsequently modify orders made under this section [dealing with, inter alia, support payments] when there is a substantial change in circumstances." We are guided in our application

of this authority by a number of principles which have emerged from our cases. The change must be *material and substantial* and must occur after the entry of the decree. In re Marriage of Jensen, 251 N.W.2d 252, 253-54 (Iowa 1977). It must appear that continued enforcement of the original decree would, as a result of the changed circumstances, result in positive wrong or injustice. Ellis v. Ellis, 262 N.W.2d 265, 267 (Iowa 1978). The change in circumstances must be permanent or continuous rather than *temporary*. In re Marriage of Mayer, 347 N.W.2d 681, 683 (Iowa Ct. App. 1984). The change in circumstances must not have been within the contemplation of the trial court when the original decree was entered. Page v. Page, 219 N.W.2d 556, 557 (Iowa 1974). The district court is granted reasonable discretion in determining whether modification is warranted, and that discretion will not be disturbed on appeal unless there is a failure to do equity. E.g., In re Marriage of Vetternack, 334 N.W.2d 761, 762 (Iowa 1983) (application to modify child support provisions); Norenberg v Norenberg, 168 N.W.2d 794, 797 (Iowa 1969) (application to modify visitation).

Rodney's first contention is that his personal economic situation has undergone a material and substantial change since the dissolution decree and that his support obligations should be reduced in recognition of that change. The dissolution decree approximated Rodney's annual income as $16,500. His testimony at the *modification hearing* established that he has completed a food service training program and is awaiting a managerial assignment. His new position pays, according to his own testimony, in "the area of 15 to 16,000" dollars. Although Rodney contends his monthly income has decreased by $541 since the original decree, we think this decrease is only temporary in light of his pending managerial assignment. See In re Marriage of Vetternack, 334 N.W.2d at 763 (identifying trend in modification proceedings to emphasize long-range

capacity to earn over short-term inability to pay). We cannot say the district court erred in refusing to modify the support provisions of the original decree.

Rodney also maintains that the district court erred in restructuring the visitation provisions of the original decree. He contends the best interests of the children require extensive summer visitation. Specifically, he argues that the district court failed to give sufficient weight to the testimony of a family therapist whose testimony recommended a ten-week visitation period during the summer.

We note initially that although an applicant seeking a modification of visitation must show a substantial change in circumstances which has occurred subsequent to the dissolution decree, the burden is much less than that in cases seeking modification of custody. In re Marriage of Jerome, 378 N.W.2d 302, 305 (Iowa Ct. App. 1985). The district court in the present case found this burden was met by Rodney's change of residence from Iowa to Illinois. See Id. at 305-06. The district court proceeded to restructure the visitation in order to account for the 375 miles which now separate Rodney and his children. In making the modification, the district court found that an expansion of Rodney's visitation rights was not justified by the record notwithstanding the testimony of the family therapist. Our review of the record persuades us to agree with the district court that the extensive visitation sought by Rodney is neither justified by the record nor clearly in the best interests of the children. See Smith v. Smith, 257 Iowa 584, 588, 133 N.W.2d 677, 679 (Iowa 1965). The modified visitation provisions award Rodney visitation of thirty days each August, one-half of the children's Christmas vacation, three days during the children's spring break or Easter weekend, and such other times as would accommodate Rodney's visits to Iowa, or as could be mutually arranged. We emphasize our assumption that Penny will be flexible and cooperative in accommodating Rodney's visits to

Iowa. We reaffirm our dedication to the principle that maximum possible exposure to both parents is usually in the best interests of the child. E.g., In re Marriage of Hubbard, 315 N.W.2d 75, 82 (Iowa 1982). In the present case, we agree that the arrangement established by the district court is well within the demands of equity and, accordingly, affirm the district court's order.

AFFIRMED.