

FILED

JUL 27 1988

CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

**IN RE THE MARRIAGE OF DEBORAH CLEMENTS
AND DAVID CLEMENTS**

Upon the Petition of)

DEBORAH CLEMENTS, n/k/a)
DEBORAH CLEMENTS BATES,)

Petitioner-Appellee,)

And Concerning)

DAVID CLEMENTS,)

Respondent-Appellant.)

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7-612
87-755

Appeal from the Iowa District Court for Pottawattamie
County (No. 26-217), Leo F. Connolly, Judge.

Respondent appeals from a district court judgment in
which the court granted petitioner's petition for modifica-
tion and increased the amount of child support to be paid
by respondent. **REVERSED AND REMANDED.**

A W. Tauke of Porter, Tauke & O'Brien, Council Bluffs,
for respondent-appellant.

Robert C. Heithoff of Heithoff, Pratt & Heithoff,
Council Bluffs, for petitioner-appellee.

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

OXBERGER, C.J.

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David Clements appeals a modification of the decree dissolving the parties' marriage. He contends the trial court erred (1) in considering a pre-divorce agreement between the parties; (2) in finding a substantial change in circumstances; and (3) in ordering an increase in his support obligation which is unjust and unfair. We reverse and remand.

We review de novo. Iowa R. App. P. 4. We give weight to the findings of the trial court, especially where the credibility of the witnesses is concerned, but we are not bound by them. Iowa R. App. P. 14(f)(7).

In reviewing modification proceedings, we are guided by the six factors outlined by the supreme court in Vellernack v. Vellernack, 334 N.W.2d 761, 762 (Iowa 1983).

The trial court found the basis for a finding of substantial change of circumstances was an increase of three to four percent per year in David's income, the fact Deborah has remarried and does not work outside the home, and the fact the children are three years older with resultant increased living expenses.

We find that David earned \$21,900 in 1984 and \$22,386 in 1986, an increase of \$486. His company has contracted to pay an additional seven percent over a three-year contract. At the time of the modification, David was in the second year of the contract. This is not a substantial increase justifying a modification of the decree.

In Mears v. Mears, 213 N.W.2d 511 (Iowa 1973), the court said:

Plaintiff's remarriage, followed by her loss of personal income, was not a material and substantial change of circumstances . . . to justify modification.

The increased expenses of the children due to the aging factor was contemplated by the original trial court in establishing the child support. We find there is insufficient evidence to establish a substantial change of circumstances. We reverse the modification of the decree ordered by the trial court and remand for entry of an order in conformance with this ruling.

We affirm the award of the trial court in awarding \$150 trial attorney fees.

REVERSED AND REMANDED.