FILED
AUG 27 1986
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF THOMAS RODNEY HUNTER, JR.
AND PENELOPE SUE HUNTER

Upon the Petition of THOMAS RODNEY HUNTER, JR.,	)	Filed August 27, 1986
Petitioner-Appellee,	)	6-177 85-1792
And Concerning PENELOPE SUE HUNTER,	)	137
Respondent-Appellant.	)	

Appeal from the Iowa District Court for Muscatine County (No. 2951-283) - J. L. Burns, Judge.

Respondent appeals from the trial court's order modifying custody. **AFFIRMED.**

Jean C. Lawrence, of Mears, Zimmerman & Mears, Iowa City, for appellant.

Julie Abell, Iowa City, for appellee.

Heard by Oxberger, C.J., and Schlegel, and Sackett, JJ.

SACKETT, J. 138

Respondent Penelope Hunter appeals from the trial court's order modifying her dissolution decree and awarding custody to Petitioner Thomas Hunter of their son, born in 1976, and their daughter, born in 1979.

The parties' marriage was dissolved in January, 1984. The dissolution decree awarded custody of the two children to Penelope. In December, 1984, Thomas filed a petition for modification of the decree asking that custody of both children be awarded to him.

Penelope failed to answer the petition. A default judgment was entered modifying the decree and transferring custody of the children to Thomas. Custody was in fact transferred to Thomas.

The decree modifying custody was subsequently set aside and a hearing was held. Custody was again awarded to Thomas. Penelope has appealed from that decision.

I.

Our review is de novo. Iowa R. App. P. 4; In Interest of C.W., 342 N.W.2d 885, 886 (Iowa App. 1983). We give weight to the fact finding of the trial court, but will not abdicate our duty to review de novo. Iowa R. App. P. 14(f)(7). We determine the issues presented upon the facts disclosed of record. In re Marriage of Phipps, 379 N.W.2d 26, 27 (Iowa App. 1985).

To justify a modification the petitioning party must show by a preponderance of the evidence there has been a substantial change in circumstances since the date of the dissolution decree materially affecting the children's welfare. In re Marriage of Jerome, 378 N.W.2d 302, 304 (Iowa App. 1985). A person seeking a change of custody must also show a superior claim, based upon an ability to minister to the child's needs more effectively than the custodial parent.

d; Zaerr v. Zaerr, 222 N.W.2d 476, 477 (Iowa 1974). The petitioning parent nust show the changed circumstances were permanent and continuous in nature nd not contemplated by the court when the decree was granted. In re Marriage of Gravatt, 371 N.W.2d 836, 838 (Iowa App. 1985). The custody of children ho are receiving proper care should not be disturbed in absence of cogent or compelling reasons. In re Marriage of Deck, 342 N.W.2d 892, 895 (Iowa App. 1983).

II.

Both parents have serious parenting deficiencies and have encountered numerous personal difficulties. A recitation of these facts in this record would serve no useful purpose.

The foremost and controlling issue must be the best interest of the child. Iowa R. App. 14(f)(15). Viewing the record as a whole, we find the trial court was correct in modifying the dissolution decree and transferring custody of the children to Thomas. We affirm the trial court.

AFFIRMED.