IN THE COURT OF APPEALS OF IOWA

No. 3-152 / 92-1409

FILED
OCT 28 1993
CLERK SUPREME COURT

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IN RE THE MARRIAGE OF JILAYNE S. BAULDER AND ROBERT A. BAULDER

Upon the Petition of
JILAYNE S. BAULDER, n/k/a JILAYNE S. HANSON,

Appellee,

And Concerning
ROBERT A. BAULDER,

Appellant.

Appeal from the Iowa District Court for Marshall County, Kurt L. Wilke, Judge.

Robert appeals the modification of the parties' dissolution decree which increased his child support obligation. **AFFIRMED.**

James S. Blackburn, of Carney, Hudson, Williams, Blackburn & Grask, Des Moines, for appellant.

William D. Kurth, of Kurth & Bunger, Carroll, for appellee.

Considered by Oxberger, C.J., and Hayden and Sackett, JJ. Donielson, J., takes no part.

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HAYDEN, J.

Robert and Jilayne Baudler were married in 1973. They had two children: Mandy, born on December 15, 1976; and Stefanie, born on November 18, 1979.

The parties were divorced on May 2, 1983. At the time, Robert was employed as a vice president in a bank and earned $28,500. Jilayne was attending community college and working part-time. Her annual income was about $3,300. Jilayne was granted custody of the children. Robert was ordered to pay $200 per month per child in child support. He was also ordered to pay alimony of $400 per month for two years in order to allow Jilayne to study to become a registered nurse. Jilayne received net assets worth about $12,000, and Robert received net assets worth about $6,000. Jilayne was restored to her maiden name of Jilayne Hanson.

Jilayne filed an application for modification on August 19, 1991. She sought an increase in Robert's child support obligation.

A hearing was held on July 23, 1992. Evidence was presented to show Robert is currently employed as a vice president at First National Bank in West Des Moines. His income is $46,800, and he has net monthly income of about $2,800. He has remarried, and his current wife has income of about $31,500.

After the dissolution decree was entered, Jilayne completed her course of study to become a registered

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nurse. She is now the director of nursing at Carroll Manor, a nursing home in Carroll. Jilayne earns about $25,000 from her employment. She also earns about $700 each year for being an umpire. Jilayne has net monthly income of $1,722.

The district court noted Iowa Code section 598.21(9) was amended effective July 1, 1992, to provide:

> Notwithstanding subsection 8, a substantial change of circumstances exists when the court order for child support deviates by ten percent or more from the amount which would be due pursuant to the most current child support guidelines established by subsection 4.

The court found there had been a substantial change in circumstances under the amendment and Robert should be required to pay an increased amount of child support. The court applied the child support guidelines and ordered Robert to pay $840 per month in child support, beginning July 1, 1992. Robert has appealed.

Our review of this equitable action is de novo. Iowa R. App. P. 4. We are not bound by the district court's findings of fact, but we do give them deference because the district court had an opportunity to view, firsthand, the demeanor of the witnesses when testifying. In re Marriage of Brown, 487 N.W.2d 331, 332 (Iowa 1992).

Robert agrees section 598.21(9), as amended, applies to this case. He also agrees there has been a substantial change in circumstances, as defined by the section, because his child support obligation under the decree deviated by

more than ten percent from the amount due under the guidelines. However, Robert contends it is not enough to find there has been a substantial change in circumstances. He argues the district court was required to make a separate finding the change in circumstances was not contemplated by the trial court when it entered the dissolution decree.

Amended section 598.21(9) must be read in conjunction with section 598.21(8), which provides:

> The court may subsequently modify orders made under this section when there is a substantial change in circumstances.

Thus, under these sections there need only be a substantial change in circumstances to modify a decree, and a deviation of ten percent or more from the amount due under the child support guidelines is considered a substantial change in circumstances.

Robert has admitted there has been a substantial change in circumstances under section 598.21(9). Once we determine child support should be modified, the present guidelines should be applied. See In re Marriage of Bergfeld, 465 N.W.2d 865, 869 (Iowa 1991). The guidelines show Robert's child support obligation should be $840 per month.

We affirm the district court's modification of the dissolution decree to increase Robert's child support obligation to $840 per month.

AFFIRMED.