FILED
MAY 22 1984
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

222

STATE OF IOWA, Ex Rel. COLLEEN BLAKELY ESSARY,

Petitioner-Appellant

vs.

THOMAS LEROY WILLIAMS,

Respondent-Appellee.

Filed May 22, 1984

4-124
83-1418

Appeal from the Iowa District Court for Jefferson County--Dan Morrison, Judge.

Petitioner-mother appeals from the trial court's order increasing respondent's child support obligation from $10 per week to $20 per week, arguing that the award is inadequate under the circumstances. AFFIRMED.

Douglas L. Tindal, Assistant Jefferson County Attorney, for the petitioner-appellant.

Joseph G. Bertogli, Des Moines, for the respondent-appellee.

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

SACKETT, J.

Petitioner-mother appeals from the trial court's order increasing respondent's child support obligaton from $10 per week to $20 per week, arguing that the award is inadequate under the circumstances.

The child in question was born to the petitioner, Colleen Blakely Essary, in 1972. In 1980 the state, acting on behalf of Colleen, filed a petition to adjudicate paternity and compel support pursuant to Iowa Code chapter 252A, the Uniform Support of Dependents Law. In December 1981 the proceeding was settled when the respondent, Thomas LeRoy Williams, acknowledged paternity and agreed to pay $10 per week in child support.

The 1981 stipulation provided that the amount of support would be subject to review by the court after one year. Pursuant to this provision, Colleen's representative filed an application in March of 1983 requesting an increase in the support award. The trial court initially increased the support award to $35 per week. Thomas, however, filed a motion to reconsider and the court modified its ruling, establishing a support award of $20 per week. Colleen has appealed, contending that the support award of $20 per week is too low. Colleen argues on appeal: (1) that the state need not prove a substantial change in circumstances since the entry of the original support decree under Iowa Code section 252A; (2) that there is no difference between a section 252A paternity/support case and a dissolution of marriage case with respect to the amount of child support which is considered to be reasonable; and (3) that the $20 per week child support ordered is unreasonable. Colleen requests that the support award be increased to $50 per week.

This is an equity case under Iowa Code section 252A.6(1)(1983). This court's review is therefore de novo. Iowa R. App. P. 4. We give weight to the findings of the trial court, but are not bound by them. Iowa R. App. P. 14(f)(7).

We will first address Colleen's argument that she need not prove a substantial change in circumstances in order to modify a chapter 252A support award.

The general rule is that the party seeking modification of a child support award must prove the following:

> (1) there must be a substantial and material change in the circumstances occurring after the entry of the decree; (2) not every change in circumstances is sufficient; (3) it must appear that continued enforcement of the original decree would, as a result of the changed conditions, result in positive wrong or injustice; (4) the change in circumstances must be permanent or continuous rather than temporary; (5) the change in financial conditions must be substantial; and (6) the change in circumstances must not have been within the contemplation of the trial court when the original decree was entered. See Ellis v. Ellis, 262 N.W.2d 265, 267 (Iowa 1978); In re Marriage of Glass, 213 N.W.2d 668, 671 (Iowa 1973); Mears v. Mears, 213 N.W.2d at 514-15; Spaulding v. Spaulding, 204 N.W.2d 634, 635 (Iowa 1973).

In re Marriage of Vetternack, 334 N.W.2d 761, 762 (Iowa 1983). Colleen argues that chapter 252A support awards should be an exception to the general rule. We agree with Colleen that the petitioner in a chapter 252A proceeding need not allege or prove a change in circumstances since any prior dissolution support award. Iowa Department of Social Services v. Blakeman, 337 N.W.2d 199, 201 (Iowa 1983). The supreme court in Blakeman noted:

> Where the question has been squarely presented under statutes similar to Iowa's, other jurisdictions have held an order for support may be made [under chapter 252A] without showing a change of circumstances from those prevailing when an unrelated support order was entered.

Id. at 203 (emphasis added). The court then concluded:

> At least in the circumstances of this case, when the action is initiated by the department, we hold it should not be required to prove the circumstances underlying the prior award, nor any change in circumstances.... The uniform act court may award more or less support than the dissolution court....

Id. at 203-04 (emphasis added). It does not follow, however, that in a situation such as this, where a party is seeking to modify an earlier chapter 252A support award, that we must likewise abandon the general rule requiring proof of changed circumstances. See Foreman v. Wilcox, 305 N.W.2d 703, 705 (Iowa 1981)(the district court in a 252A proceeding may subsequently make modifications upon a material change of circumstances). We decline to extend the Blakeman decision beyond its reasonable bounds.

Colleen argues further that the 1981 stipulation, which provided for judicial review of the support award after one year, obviated the need to show changed circumstances. We disagree. Only when the decree unequivocally provides for later trial court review without the necessity of showing a change of circumstances will we say this was the trial court's intent. Otherwise we consider statements concerning restention of jurisdiciton as mere expressions of already existing authority. In re Marriage of Schlenker, 300 N.W.2d 164, 166 (Iowa 1981).

Colleen, in her application to modify the child support award, does not allege "a substantial and material change in the circumstances" occurring after the entry of the original decree. Nor does the record support the conclusion "that continued enforcement of the original decree would, as a result of the changed conditions, result in positive wrong or injustice." See In re Marriage of Vetternack, 334 N.W.2d at 762.

The record reveals that Colleen is now remarried and is no longer receiving A.D.C. benefits. She is employed part-time and her husband is employed full-time. They have three dependents. There has been no appreciable change in Thomas's circumstances since the entry of the original support award. If anything, it appears as though Colleen has enjoyed an increased standard of living while Thomas has not.

We find, on our de novo review, no basis for an increase in the child support award.

AFFIRMED.