FILED
FEB 26 1986
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF JOHN E. McKINSTRY AND SHAREE T. McKINSTRY

Upon the Petition of)

JOHN E. McKINSTRY,)

Petitioner-Appellant,) Filed February 26, 1986

And Concerning)

SHAREE T. McKINSTRY,) 5-661 / 85-604

Respondent-Appellee.)

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Appeal from the Iowa District Court for Linn County (No. DM 7548) - William L. Thomas, Judge.

Petitioner appeals an order modifying the economic provisions of the decree dissolving the parties' marriage, asserting that the trial court erred in increasing the amount of child support. **AFFIRMED.**

James W. Affeldt of Eells, Blackstock, Affeldt & Harms, Cedar Rapids, for petitioner-appellant.

James G. Thomas of Thomas & Knuth, Anamosa, for respondent-appellee.

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

The McKinstrys' marriage was dissolved by decree in May of 1981. The care and custody of the two minor children, then eight and three years old, was awarded to Sharee. John was ordered to pay $150 per month per child in child support.

In October of 1984, Sharee filed an application to modify the child support provisions of the original dissolution decree. The petition alleged a substantial change in circumstances and prayed for an increase to $50 per week per child.

John's gross income was $1,800 per month at the time of the dissolution. The modification court found that John was presently earning $2,400 per month. The modification court also noted that John had since remarried and his new wife earned $2,000 per month.

John argued at the modification hearing that he was living with the woman now his wife at the time of the dissolution. Therefore, his eventual marriage to her was in the contemplation of the court at the time of the dissolution decree. They both are employed by the same employers that they were when the original decree was entered. John also contended that the children continued to reside in the same school district and in the same residence they had been in at the time of the dissolution. However, the trial court noted that "the full extent of the cost of a teenage child is almost never anticipated by anyone." Therefore, the court increased John's child support payments to $50 per week per child. The order further provided that the increase was to be retroactive to January 1, 1985.

On appeal, John asserts that the trial court erred in increasing child support because any change of circumstances which had occurred since the dissolution decree was within the contemplation of the dissolution court.

Our review is de novo. Iowa R. App. P. 4 (1985). We are not bound by the findings of the trial court, but we give them weight. Iowa R. App. P. 14(f)(7).

It is well settled that:

> To justify modification of a child support provision some material change must be shown in the circumstances of the parties, financially or otherwise, making it equitable that other or different terms be imposed. A decree will not be modified unless its enforcement will be attended by positive wrong or injustice as a result of the changed circumstances. Modification should be based upon a change of circumstances more or less permanent or continuous, not temporary, and where a change of financial condition of one or both of the parties is relied upon, it must be substantial.

Spaulding v. Spaulding, 204 N.W.2d 634, 635 (Iowa 1973). The circumstances which have changed must be those which were not within the contemplation of the trial court when it entered the dissolution decree. Page v. Page, 219 N.W.2d 556, 557 (Iowa 1974); Mears v. Mears, 213 N.W.2d 511, 515 (Iowa 1973).

Increased costs due to the needs of growing children may be taken into account when determining whether a modification of a child support provision is warranted. In re Marriage of Stutsman, 311 N.W.2d 72, 76 (Iowa 1981). We also must consider the ability of the payor to make increased payments. Id.; Spaulding, 204 N.W.2d at 635. While the payor's second wife has no obligation to support the payor's children from his first marriage, it is appropriate to consider the payor's overall financial condition, including the fact that his second wife is employed, in fixing the amount he should pay as child support. Page, 219 N.W.2d at 558.

The circumstances which Sharee argues have changed since the time of the dissolution include the fact that John's salary has increased by thirty-three percent, his second wife contributes substantially to his new family's income, and the children's needs have increased with age.

It is undisputed that John increased his gross earnings from $1,800 per month in 1981 to $2,400 per month in 1985. In addition, he married an employed individual who substantially contributes to living expenses in their new home. While John argues that the dissolution court knew that he was living with this individual at the time of the dissolution, John's affidavit of financial status filed at that time indicated only expenses for the support of himself and no financial contributions by anyone else. We place emphasis on "what the decretal court actually knew, not on what the parties knew, or should have known or should have produced at the earlier trial." Mears, 213 N.W.2d at 515, (quoting Warren v. Warren, 191 N.W.2d 659, 661 (Iowa 1971)).

Sharee testified that she has a hard time making ends meet on her income of about $1,000 per month with both children attending school, the increased costs of food, clothing, and school activities in which the children desire to participate.

We find that Sharee has demonstrated a substantial change of circumstances which was not within the contemplation of the court at the time the dissolution was granted. Sharee's requested increase requires John to pay approximately eighteen percent of his gross income for the support of his children. We, therefore, conclude that an increase in John's child support obligation to $50 per week per child is warranted.

AFFIRMED.