FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF MICHAEL L. SELVOG AND SHARLENE MAY SELVOG

Upon the Petition of	)	284
MICHAEL L. SELVOG,	)	Filed November 26, 1985
Petitioner-Appellant,	)	
And Concerning	)	
SHARLENE MAY SELVOG,	)	5-349 84-1934
Respondent-Appellee.	)	

Appeal from the Iowa District Court for Marshall County - Carl D. Baker, Judge.

Petitioner appeals the refusal of the trial court to modify his child support payments due to an alleged substantial change in circumstances. **AFFIRMED.**

Pat W. Brooks of Brooks, Ward & Trout, Marshalltown, for petitioner-appellant.

W. J. Latham, Jr. of Johnson, Sudenga, Carter & Latham, Marshalltown, for respondent-appellee.

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

SCHLEGEL, J.

Petitioner Michael Selvog appeals the refusal of the trial court to modify his child support payments due to an alleged substantial change in circumstances. We agree with the trial court's refusal to modify the order.

Michael and Sharlene Selvog's marriage was dissolved on February 18, 1976. In an agreement reached between the parties, custody of their minor children was placed with Sharlene. In 1980, pursuant to an agreement between the parties, child support was increased from $100 to $200 a month. In addition, subsequent to 1980, Michael was entitled to claim their son, Jay, as a personal exemption on his federal and state income tax returns, and Sharlene was entitled to claim their other son, Kenny, as a personal exemption on her federal and state income tax returns.

In December 1982, after 12 years on the job, Michael was laid off by the Chicago Northwestern Transportation Company as part of their plan to reduce their work force. In 1982, Michael earned $24,150. However, in 1983, his earnings were only $3,574. Recently he began working for an auto repair shop earning a gross pay of $160 a week. He maintains that his present monthly expenses are fixed at $945.29.

Sharlene alleges that her fixed monthly personal expenses for herself and the two children amount to $1,421. Included among the debts owed by Sharlene is an orthodontist bill of $1,700. Sharlene has remarried and her husband claimed earnings of $35,807 in 1982, and $39,603 in 1983.

I. Modification. Michael alleges that his child support payments should be modified because of his substantial change in his income. We do not believe he is entitled to such relief.

We review orders on applications to modify child support provisions de novo. Mears v. Mears, 213 N.W.2d 511, 515-16 (Iowa 1973); Iowa R. App. P. 4.

Nevertheless the trial court has reasonable discretion in determining whether modification is warranted and that discretion will not be disturbed on appeal unless there is a failure to do equity. E.g., Norenberg v. Norenberg, 168 N.W.2d 794, 797 (Iowa 1969).

Authority to modify dissolution decrees is given in Iowa Code § 598.21(8) (1981) which provides:

> The court may subsequently modify orders made under this section when there is a substantial change in circumstances. Any change in child support because of alleged change in circumstances shall take into consideration each parent's earning capacity, economic circumstances and cost of living.

In In re Marriage of Vetternack, 334 N.W.2d 761 (Iowa 1983), the supreme court reviewed the principles derived from an exhaustive list of cases concerning application for the modification of child support. See, 334 N.W.2d at 762, 763. The supreme court concluded:

> A review of these holdings indicates three trends: (1) a growing reluctance to modify decrees; (2) current inability to pay has become less a consideration and long range capacity to earn money has become more of a consideration; and (3) any voluntariness in diminished earning capacity has become increasingly an impediment to modification.

Id. at 763.

The last two trends are most applicable to the case before us today. Testimony at trial clearly demonstrates that petitioner is suffering from no debilitating physical, emotional, or mental condition that has lessened his earning capacity from what it was before 1982. He has demonstrated the earning capacity to meet his present support obligation of $200 per month. This amounts to only $25 per week per child.

More importantly, it is clear from the record that petitioner's reduction in income is due, at least in part, to his own volition. We note with particularity instances where petitioner quit a job paying approximately $3,000 a month after

only one week. He also demonstrated a reluctance to seek employment that would involve more than 40 hours a week, or higher pay than what he is presently earning.

We are convinced that the petitioner has himself substantially contributed to his present economic status even though he has not suffered anything to reduce his earning capacity. We therefore affirm the trial court.

AFFIRMED.