

IN THE COURT OF APPEALS OF IOWA

FILED

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CLERK SUPREME COURT

IN RE THE MARRIAGE OF ROBERT SHATAVA AND BILLIE SHATAVA

Upon the Petition of	)	190
ROBERT SHATAVA,	)	
Petitioner-Appellee,	)	Filed November 20, 1984
And Concerning	)	
BILLIE SHATAVA,	)	<u>4-434</u>
Respondent-Appellant.	)	84-255

Appeal from the Iowa District Court for Adair County - Michael J. Streit,
Judge.

Respondent wife appeals from a district court order denying her petition to modify the child support provisions of the dissolution decree. On appeal, petitioner asserts that there has been a substantial change of circumstances to justify modification. AFFIRMED.

Charles A. Coppola of Coppola, Coppola, Clark & Karnas, West Des Moines,
for respondent-appellant.

Steven A. Jensen of Williamson & Jensen, Greenfield, for petitioner-
appellee.

Considered by Oxberger, C.J., and Donielson and Sackett, JJ.

DONIELSON, J.

Respondent-wife appeals from a district court order denying her petition to modify the child support provisions of the dissolution decree. She claims that there has been a substantial change of circumstances to justify the modification. We affirm.

Billie and Robert Shatava were married in 1974. They have two minor children, Kimberly Ann and Justin. On June 2, 1981, Robert filed for dissolution. The following day the parties met with Robert's attorney to discuss a proposed stipulation agreement. During this meeting, Billie and Robert agreed on child support in the amount of \$200 per month per child. The circumstances under which this agreement was made are disputed. Billie claims that Robert's attorney informed her that \$200 per month per child was the maximum amount of child support that she could receive in Iowa. Robert denies this. Immediately after accepting the agreement, Billie and her children moved to her sister's home in Connecticut.

On October 9, 1981, a decree was entered by default. In accordance with the stipulation, the court ordered Robert to pay child support in the amount of \$200 per month per child. Billie subsequently filed for modification seeking additional child support. A hearing was held and the court denied her application. Billie has appealed.

Our review of the trial court's order is de novo. Mears v. Mears, 213 N.W.2d 511, 515-16 (Iowa 1973). "Nevertheless the trial court has considerable discretion in determining whether modification is warranted and that discretion will not be disturbed on appeal unless there is a failure to do equity." In re Marriage of Vetternack, 334 N.W.2d 761, 762 (Iowa 1983).

Child support awards may be subsequently modified "when there is a substantial change in circumstances. The court contemplating a change in child support because of alleged change in circumstances shall consider each parent's

earning capacity, economic circumstances and cost of living." Iowa Code § 598.21(8) (1983). The circumstances must not have been within the contemplation of the trial court when the original decree was entered. In re Marriage of Vetternack, 334 N.W.2d at 762. In Mears v. Mears, the supreme court elaborated on this principle:

[I]f the parties knew of some fact at the time of original decree or at time of a subsequent intervening proceeding which considered modification of child support provisions of such decree but the decretal court did not know of such fact, and this fact is now being advanced as a basis for modification, then that fact, if sufficient to cause a subsequent material change in circumstances, would be grounds for a modification.

213 N.W.2d at 515.

On appeal, Billie lists several circumstances existing at the time the decree was entered. She claims that the trial court did not know of the circumstances since the decree was entered by default and that they warrant modification.

The record reveals that although Billie had a GED diploma, she had no marketable skills and no experience in handling money or expenses. At the time the decree was entered, she was employed as a waitress. Shortly after the decree was entered, she began working for Signal Office Products and earns approximately \$8,000 per year. Billie's earnings were reduced by the need for her to stay home with her son, Justin, who has a chronic asthmatic condition. Her income is entirely consumed by essential living expenses. Robert's income has remained relatively the same since the original decree was entered. He has remarried and has another child.

Billie's primary complaint is that she has encountered substantial living expenses which she did not anticipate. She states that at the time she agreed to the amount of child support, she was unaware of the costs of raising children. She also points out that the cost of living in Connecticut is substantially greater than it would be in Iowa. While we recognize the difficulties of this situation, this

court is not inclined to disturb the child support provisions of the decree. We emphasize, however, that this decision is not reached easily. Billie obviously is making every attempt to provide for her children and is having trouble making ends meet. Yet, we cannot say the interests of the children are being jeopardized by the decree or that the trial court's refusal to modify the decree has resulted in inequity. While \$200 per month per child is not an overly generous amount, circumstances are simply not sufficient to justify a modification at this time.

AFFIRMED.