

IN THE COURT OF APPEALS OF IOWA

No. 6-759 / 95-1517

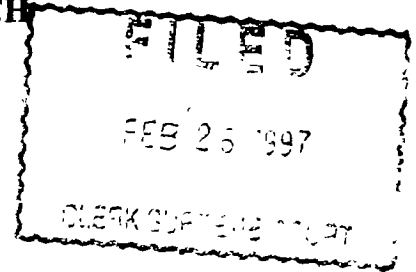
**IN RE THE MARRIAGE OF JOANN MARIE HAUBRICH
AND ALAN JOSEPH HAUBRICH**

Upon the Petition of
JOANN MARIE HAUBRICH,

Appellee,

And Concerning
ALAN JOSEPH HAUBRICH,

Appellant.



Appeal from the Iowa District Court for Cerro Gordo County, John Mackey,
Judge.

Alan Haubrich contends the order modifying his child support obligation
should be made retroactive to the date he filed his modification petition.

AFFIRMED.

John G. Sorensen of Stanton & Sorensen, Clear Lake, for appellant.

N. LeRoy Walters, Mason City, for appellee.

Considered by Habhab, C.J., Huitink, and Vogel, JJ.

PER CURIAM

This is an appeal by Alan Haubrich claiming the district court should have ordered that the modification of his child support obligation be retroactive to the date he filed the modification petition. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court Rule 9.

JoAnn and Alan Haubrich's marriage was dissolved by a decree filed on August 2, 1988. JoAnn was awarded the primary care of the parties' three children and Alan was ordered to pay child support in the amount of \$600 per month.

In April 1994 the parties' eldest son went to live with Alan and Alan filed a petition to modify his child support obligation. In January 1995 Alan ceased paying any child support to JoAnn and, at the time of the trial on the modification petition, Alan was \$5100 in arrears. On August 2, 1995, the district court filed an order in which it concluded Alan's child support obligation for two children is \$650.72 per month and JoAnn's obligation for one child is \$301.72. Offsetting these amounts, Alan was ordered to pay \$350 per month in child support, effective August 1, 1995. The court refused to make the modification retroactive. Alan now appeals, claiming the district court should have made the order retroactive to the date he filed the modification petition.

Our review is de novo. Iowa R. App. P. 4.

Iowa Code section 598.21(8)(k) (1995) authorizes retroactive modification of child support. However, that authority is discretionary, not mandatory. *Id.*; *see*

McIntire v. Leonard, 518 N.W.2d 793, 794 (Iowa 1994); *In re Marriage of Keopke*, 483 N.W.2d 612, 614 (Iowa App. 1992).

Here, a change of a child's living arrangements was made without court order. Alan then ceased paying child support for the two children remaining in JoAnn's physical care without court order. At the time of the modification trial, Alan was more than \$5000 in arrears on his child support obligation. We conclude the trial court did not abuse its discretion in refusing to order Alan's child support obligation be modified retroactive to the date the petition was served on JoAnn. We affirm.

AFFIRMED.