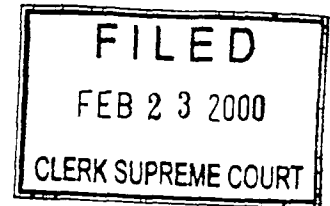


IN THE COURT OF APPEALS OF IOWA

No. 1999-373 (9-626) / 98-2024
Filed February 23, 2000



IN RE THE MARRIAGE OF STEPHANIE G. SAUSER AND DENNIS JOHN SAUSER

Upon the Petition of
STEPHANIE G. SAUSER,
Petitioner-Appellee,

And Concerning
DENNIS JOHN SAUSER,
Respondent-Appellant.

Appeal from the Iowa District Court for Linn County, Thomas M. Horan,
Judge.

Dennis John Sauser appeals the district court's ruling denying a change in
child support payments. **AFFIRMED.**

Gary J. Shea of Shea Law Offices, Cedar Rapids, for appellant.

Christine L. Crilley, Cedar Rapids, and Michael E. Wallace, Child Support
Recovery Unit, Cedar Rapids, for appellee.

Considered by Sackett, C.J., and Vogel and Hecht, JJ.

PER CURIAM

The marriage of Dennis and Stephanie Sauser was dissolved in February 1996. The decree approved the parties' stipulation of \$750 per month child support payments to Stephanie. At the time, Dennis was earning approximately \$38,500 per year and Stephanie was earning approximately \$21,000 per year. In June 1996 Dennis voluntarily changed employers. He was involuntarily terminated in September 1997. After two months of seeking new employment, Dennis became a self-employed, independent manufacturing representative. In June 1998 the Child Support Recovery Unit found there had been a 148% change in Dennis' income and reduced his monthly child support to \$302. Stephanie contested the change and the issue was submitted to the district court. In October 1998 the court found Dennis' gross annual income for the preceding five years had exceeded \$30,000. Stephanie now earns approximately \$26,000 per year. The court found Dennis had not established a substantial and material change in circumstances and denied the change in child support payments.

On appeal, Dennis claims there was a substantial change in circumstances warranting a retroactive reduction in child support. He claims (1) the correct computation of income shows a drastic change; (2) the district court disregarded the Child Support Guidelines; and (3) there is no evidence he intentionally reduced his earnings. Dennis also argues the parties' relative financial positions requires a denial of Stephanie's attorney fee claim. Stephanie claims the change in income is not permanent or substantial and, therefore, does not warrant a reduction in child support. She argues Dennis presently retains a high earning capacity. She requests appellate attorney fees.

Our review is de novo. Iowa R. App. P. 4. The district court may modify the support provisions of a dissolution decree when there has been a substantial change in circumstances. Iowa Code § 598.21(8) (1997). The changed circumstances must be material and substantial, more or less permanent or continuous, and must be such as were not within the knowledge or contemplation of the court when the decree was entered. *In re Marriage of Ales*, 592 N.W.2d 698, 702 (Iowa App. 1999).

We recognize Dennis was earning less at the time of the district court's ruling than he had in his previous two jobs. From our review of the record, however, we find this reduction in income to be temporary. It appears from the evidence in the record that Dennis is rebuilding his former income in his present position. There is no evidence his earning capacity has diminished. We, like the district court do not find a basis for modifying his child support obligation as originally established by the decree of dissolution.

Given the respective financial circumstances of the parties, and Stephanie's costs in retaining the original child support, we award Stephanie \$1500 in appellate attorney fees. Costs taxed to Dennis.

AFFIRMED.