

FILED

OCT 28 1987

CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF DWIGHT A. INGRAM AND BARBARA J. INGRAM

Upon the Petition of	)	111
DWIGHT A. INGRAM,	)	
Petitioner-Appellee,	)	Filed October 28, 1987
And Concerning	)	
BARBARA J. EMBREE, f/k/a	)	<u>7-373</u>
BARBARA J. INGRAM,	)	<u>86-741</u>
Respondent-Appellant.	)	

Appeal from the Iowa District Court for Polk County (No. CE 23-13698),
Gene L. Needles, Judge.

Respondent appeals from a district court ruling reducing petitioner's child support obligation, contending no substantial change in circumstances has been shown **AFFIRMED.**

Ray Sullins of Riemenschneider, Rydell & Smalley, Des Moines, for respondent-appellant.

No appearance by petitioner on appeal.

Considered by Oxberger, C.J., and Donielson and Sackett, JJ. Snell, J., takes no part.

PER CURIAM

On June 25, 1982, Dwight and Barbara Ingram were granted a dissolution of their marriage by the District Court for Union County. The district court, in those portions of the dissolution decree pertinent to the present action, awarded custody of the parties' two minor children to Barbara and imposed child support obligations upon Dwight. On May 29, 1987, Dwight filed an application for modification of the decree, seeking a reduction of these obligations. Following a hearing, the district court granted Dwight's application. Barbara brings this appeal in order to challenge that result. Our review is de novo. Iowa R. App. P. 4. Although we give weight to the fact findings made by the district court, we are not bound by them. Iowa R. App. P. 14(f)(7). We affirm.

Our authority to modify dissolution decrees is grounded in both statute and the cases. Iowa Code section 598.21(8) (1987) states that "[t]he court may subsequently modify orders made under this section [dealing with, inter alia, child support payments] when there is a substantial change in circumstances." We are guided in our application of this authority by a number of principles which have emerged from our cases. The change must be material and substantial and must occur after the entry of the decree. In re Marriage of Jensen, 251 N.W.2d 252, 253-54 (Iowa 1977). It must appear that continued enforcement of the original decree would, as a result of the changed circumstances, result in positive wrong or injustice. Ellis v. Ellis, 262 N.W.2d 265, 267 (Iowa 1978). The change in circumstances must be permanent or continuous rather than temporary. In re Marriage of Mayer, 347 N.W.2d 681, 683 (Iowa App. 1984). The change in circumstances must not have been within the contemplation of the trial court when the original decree was entered. Page v. Page, 219 N.W.2d 556, 557 (Iowa 1974). The district court is granted 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., In re Marriage of Vetterneck, 334 N.W.2d 761, 762 (Iowa 1983) (application to modify child support provisions); Norenberg v. Norenberg, 168 N.W.2d 794, 797 (Iowa 1969) (application to modify visitation).

The district court concluded that a reduction in Dwight's income provided the substantial change in circumstances necessary for the modification of his support obligation. The record establishes that at the time the original decree was filed Dwight was employed by a bank in Afton, Iowa. His base salary in that capacity was approximately \$20,000.00. In addition he received, according to his testimony at the modification hearing, "a bonus of around, between 15 and 20 thousand dollars" during 1982. The record does not include a copy of Dwight's income tax returns for that year. We note also that this bonus was not listed on Dwight's financial affidavit, filed during the 1982 dissolution proceedings. However, an income between \$35,000.00 and \$40,000.00 would not be inconsistent with those received in 1981 or 1984 as demonstrated by the record copies of tax returns for those years. Dwight left the bank several months before it closed in early 1985. He is now employed at an annual salary of approximately \$24,000.00. He does not receive any bonus. Both parties have remarried. Dwight and his present wife have two children and Dwight has adopted a third child of his current wife.

In determining whether a substantial change in circumstances has occurred, a court is required to consider not only "[c]hanges in the employment, earning capacity, income or resources of a party," Iowa Code § 598.21(8)(a) (1987), but also the "[r]emarriage of a party," Iowa Code § 598.21(8)(g) (1987), and "[c]hanges in the number or needs of dependents of a party," Iowa Code § 598.21(8)(d) (1987). The district court, taking these and other factors into consideration, concluded that a modification of Dwight's support obligations was warranted.

The 1982 decree sanctioned the parties' agreement that Dwight would contribute \$110.00 per child on the first and fifteenth of each month. The modification reduces this to \$40.00 per child per week. Our review does not convince us that such a result manifests an absence of equity. The district court is accordingly affirmed.

AFFIRMED.