

FILED
OCT 27 1981
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF JOANNE S. HANSON AND RONALD E. HANSON

Upon the Petition of	)	
JOANNE S. HANSON,	)	Filed October 27, 1981
Petitioner-Appellee,	)	
And Concerning	)	
RONALD E. HANSON,	)	<u>1-329</u>
Respondent-Appellant.	)	<u>2-65344</u>

Appeal from Linn District Court - Robert Osmundson, Judge.

Respondent husband appeals from the trial court's denial of his application to modify the child support provisions of the parties' dissolution decree. AFFIRMED.

Donald L. Carr II and John H. Ehrhart of Fisher, Martin, Ehrhart & McCright, Cedar Rapids, for respondent-appellant.

David F. McGuire, Cedar Rapids, for petitioner-appellee.

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

PER CURIAM

Respondent husband appeals from the trial court's denial of his application to modify the child support provisions of the parties' dissolution decree. Respondent asserts that a reduction in his income and the child's projected move to California with petitioner wife constitutes a change in circumstances sufficient to justify a reduction in child support.

Our review of this equitable proceeding is de novo. Iowa R. App. P. 4. We affirm.

The parties' 1978 dissolution decree awarded the petitioner custody of their minor child and child support of \$35.00 per week. At that time respondent was employed as a cab driver with an income of approximately \$150.00 per week. Subsequent health problems, including three operations and psychiatric treatment, caused him to stop driving a cab. On February 22, 1980, respondent filed an application to modify child support provisions of the decree alleging as change of circumstances a reduction in his income to \$49.00 per week from umpiring baseball games. At trial, the petitioner revealed to him for the first time her intent to move to California with the child. The court denied the respondent's application to modify the amount of child support, but did modify the decree to permit the wife's move to California.

Respondent has the burden to prove by a preponderance of evidence that a material and substantial change of circumstances has occurred since the date of the original decree. Dworak v. Dworak, 185 N.W.2d 740, 742 (Iowa 1972). The decree will not be modified unless enforcement of it would be attended by positive wrong or injustice. The change of circumstances should be more or less permanent or continuous, not temporary, and where a change of the financial condition of one or both of the parties is relied upon, it must be substantial. McDonald v. McDonald, 183 N.W.2d 186, 188 (Iowa 1971).

We find that respondent has failed to carry his burden of proof. The record is not sufficient to prove that respondent's alleged psychiatric disability is permanent rather than temporary. We are also unconvinced that respondent could not find employment which would be more lucrative than part-time baseball umpiring. The trial court correctly denied his application to reduce the original decree's minimal support award of \$35.00 per week.

AFFIRMED.