FILED
JUN 28 1979
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

UPON THE PETITION OF	)	
CLETUS J. GOLINVAUX,	)	Filed June 28, 1979
Petitioner-Appellee,	)	
AND CONCERNING	)	158
JEANNE A. GOLINVAUX,	)	2-62302
Respondent-Appellant.	)	

Appeal from Dubuque District Court - Thomas H. Nelson, Judge.

Respondent-wife appeals trial court's denial of her application for modification of token alimony provisions of original decree. REVERSED WITH ORDER TO MODIFY.

Fuerste, Carew, Coyle, Juergens & Sudmeier of Dubuque, Iowa, for appellant.

Paul J. Fitzsimmons of Dubuque, Iowa, for appellee.

Submitted to Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Respondent-wife appeals trial court's denial of her request for modification of token alimony provisions of the June 23, 1976, decree dissolving the twenty-eight year marriage of the parties alleging trial court erred in finding there had been no material and substantial change of circumstances not reasonably anticipated by the court at the time of the original decree. We reverse with order to modify.

I. A decree of dissolution is subject to modification if the moving party establishes by a preponderance of the evidence that there has been a material and substantial change of circumstances since entry of the decree such that enforcement of the original provisions would be attended by positive wrong or injustice. Ellis v. Ellis, 262 N.W.2d 265, 267 (Iowa 1978). The original decree is conclusive as to all facts and circumstances which were within the knowledge and contemplation of trial court. Mears v. Mears, 213 N.W.2d 511, 515 (Iowa 1973). Our review is de novo. Iowa R. App. P. 4.

II. The original decree granted respondent, then age 47, token alimony of $1.00 per year which "may be modified upon showing by either party of a substantial change in the circumstances from those existing on the date of this Decree. . . ."[1] In her February 21, 1978, Application for Modification, respondent alleged that a substantial change in her health and financial situation had occurred; she prayed for increased alimony to provide adequate support.

Trial court's finding that no change had occurred which the decretal court did not reasonably anticipate primarily concerns the following paragraph from the original "Findings of Fact." Paragraph 9 stated "[t]hat the Respondent is suffering from certain physical ailments consisting of a vercosity [sic] condition in her legs and an arthritis condition in her hands and wrists. . . ."[2]

From our review of the record, we find respondent has met her burden. See Page v. Page, 219 N.W.2d 556, 558 (Iowa 1974). There is no dispute as to the decretal court's knowledge of respondent's general health condition in 1976. However, since that time her disease, which was then in remission, has become progressively aggravated; her knee is frequently swollen to the point that walking is difficult; she must wear orthopedic

[1] App. p. 11.

[2] App. p. 7.

shoes; her neck is inflexible due to stiffness; progressive degeneration of her wrist joints has left her with little strength in her arms; her employment prospects, at least until she receives her bachelor's degree, have diminished following repeated rejections for jobs commensurate with her physicial conditions, and she has been forced, despite the deleterious impact on her health, to accept employment which requires prolonged standing.[3]

We, therefore, conclude trial court should have modified the original decree to provide respondent $200 per month alimony for a period of three years from the date of the hearing on the respondent's Application,[4] at which time the original provisions shall be reinstated unless either party can show sufficient evidence to warrant further modification.

Judgment of trial court reversed with order to modify.

REVERSED WITH ORDER TO MODIFY.

[3] We are aware that at hearing time respondent was employed full timeat $2.90 per hour.

[4] May 12, 1978.