FILED
MAR 31 1980
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

$77

RAYMOND MANUEL MUR,

Petitioner-Appellee,

and Concerning

VIRGINIA THERESA MUR,

Respondent-Appellant.

Filed March 31, 1980

0-24
2-63860

Appeal from Polk District Court - Anthony M. Critelli, Judge.

Wife appeals trial court's denial of her request for modification of alimony provisions of a 1968 divorce decree alleging trial court erred in finding there had been no material and substantial change of circumstances, since a prior modification in 1975, justifying an increase in her alimony award. AFFIRMED.

Susan L. Ekstrom of Allen, Babich & Bennett, Des Moines, for respondent-appellant.

Harry Perkins, III, of Patterson, Lorentzen, Duffield, Timmons, Irish & Becker, Des Moines, for petitioner-appellee.

Heard by Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Respondent-wife, Virginia Theresa Mur, appeals trial court's denial of her request for modification of the alimony provisions of a 1968 divorce decree ending her marriage to petitioner-husband, Raymond Manuel Mur. She alleges 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 a prior modification in 1975. We affirm.

The parties were married 15 years before their marriage was dissolved on November 20, 1968. Custody of the parties' three children was granted to respondent. The original decree mandated petitioner pay $100 alimony and $325 child support per month. Upon respondent's application for modification, those amounts were increased to $140 and $450 per month, respectively, in 1975. Petitioner's application to modify in 1977 resulted in a transfer of custody of the parties' daughter to petitioner and a reduction in his child support obligations to $300 per month. Respondent's current application of February 15, 1979, sought modification of the alimony and child support provisions of the decree. Finding the oldest of the two children residing with respondent was self-supporting or capable of it, trial court, upon petitioner's cross-application, ordered a decrease in petitioner's child support obligations to $150 per month. Trial court also denied respondent's application for increase in alimony, concluding respondent presently was capable of obtaining, at least, part-time employment, while finding no material and substantial change of circumstances not reasonably anticipated by the court in 1975.

It is from this ruling respondent appeals alleging error only as to denial of modification of the alimony provisions. She specifically complains inflation has decreased her standard of living and imminent termination of child support payments will aggravate this circumstance. Respondent further argues she cannot work because she is nervous due to the effects of menopause.

**I. Scope of Review.** Appellate review of a modification proceeding is **de novo.** Iowa R. App. P. 4; Walters v. Walters, 203 N.W.2d 376, 378 (Iowa 1973).

**II. Modification of Alimony Provision.** A decree of dissolution is subject to modification if the moving party establishes by a preponderance of the evidence there has been a material and substantial change of circumstances since entry of the decree, or any subsequent modification, such that enforcement of the provisions would be attended by positive wrong or injustice. Ellis v. Ellis, 262 N.W.2d 265, 267 (Iowa 1978). In making this determination, we consider the parties' earning capacity and the inroads

inflation has made upon the purchasing power of the dollar. Id. at 267-68. See also Page v. Page, 219 N.W.2d 556, 558 (Iowa 1974). The original decree, including any subsequent modification, 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).

We agree with trial court's conclusion respondent in this case has not shown the requisite change in circumstances to warrant an increase of the alimony provisions of the modified decree. During the years since the divorce was granted, respondent has had an opportunity to obtain gainful employment. As the children have grown older and more independent, their demands on respondent's companionship and time have diminished. Although these demands may have precluded respondent from developing a career in previous years, the record establishes nothing preventing her from pursuing such a course today except her own unwillingness to seek employment and become self-supporting. Respondent has presented no evidence of health problems limiting her ability to obtain employment beyond her own self-serving statements regarding nervous symptoms due to menopause. There is no evidence to show this condition is not alleviated by the medication prescribed for her. Respondent has been aware for sometime her child support payments would terminate. While we recognize the inroads inflation has cut into her standard of living, the impact of inflation is a two-way street, affecting petitioner as well as respondent. Mears, 213 N.W.2d at 519. Such inroads properly may be taken into account in combination with other factors, such as deterioration of health, increased medical expenses, or real evidence of unemployability, but we find no authority for the proposition inflation alone is sufficient to warrant modification of alimony provisions. Respondent has failed to meet her burden of proof. Costs of this appeal are assessed against respondent.

Judgment of trial court is affirmed.

AFFIRMED.