FILED
MAY 20 1977
CLERK SUPREME COURT

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IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF MYRTLE M. PATRICK and CLAYTON D. PATRICK

Upon the Petition of)
MYRTLE M. PATRICK,) Filed May 20, 1977
Appellee,)
And Concerning)
CLAYTON D. PATRICK,) 168 2-58982 & 2-59104
Appellant.)

Appeal from Grundy District Court - Carroll E. Englekes, Judge.

Respondent appeals adverse ruling for an order to stay garnishment of wages for satisfaction of child support arrearage. He also appeals denial of a 1975 application to modify child support and alimony provisions of the 1973 original decree. - Affirmed.

Clayton D. Patrick, of Gladbrook, pro se.

Jack Hall, of Lundy, Butler, Wilson & Hall, of Des Moines, for Appellee.

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

PER CURIAM

Clayton Patrick, proceeding *pro se*, appeals an adverse ruling for an order to stay garnishment of his wages to satisfy his child support arrearage. He also appeals the overruling of his application of December 17, 1975 to modify the child support and alimony provisions of the 1973 original decree. We affirm.

From November 1974 through mid-April 1975 Clayton maintained a steady surveillance of his teenage daughters' activities. He prepared a detailed log to document his claim that they were improperly supervised and were engaged in improper behavior. Not surprisingly, the daughters ultimately filed a request that their father be denied enforcement of visitation rights. Granting that Clayton acted from the best of intentions, the trial court ordered visitation as per the original decree.

Under a claim of lack of access to his daughters, Clayton has withheld $2600 child support (as of February 1, 1976) since the June 1973 decree. He has not established an escrow account for deposit of the funds due in lieu of making payments to the clark of court. *See* Hobson v. Hobson, 248 N.W.2d 137 (Iowa 1976). Rather, he has consistently asserted without visitation, no child support is due.

Child support is not the *quid pro quo* for visitation rights. Anthony v. Anthony, 204 N.W.2d 829 (Iowa 1973). Child support in arrears in Iowa may be enforced by garnishment of wages. Cullinan v. Cullinan, 226 N.W.2d 33, 35-36 (Iowa 1975). Further, Myrtle's right to collect past payments did not terminate with the emancipation of the elder daughter when she reached majority. *Cullinan*, 226 N.W.2d at 35, 36. Myrtle's timely garnishment preserved her child support entitlement. Indeed, failure to pursue such a course could

have resulted in her waiver of it. *Anthony*, 204 N.W.2d at 834.

Clayton's second claim seeks an alteration of the original 1973 decree provisions regarding child support and alimony. Having allowed the time to pass for appeal of the decree, he may not now collaterally attack its provisions. A dissolution case is not to be retried under the "cloak of an application for modification." Staggs v. Staggs, 250 Iowa 938, 941, 96 N.W.2d 736 (1959). He has demonstrated no change of circumstances to support the court's granting a present reduction in child support or alimony. Mears v. Mears, 213 N.W.2d 511 (Iowa 1973).

We reluctantly note Judge Van Metre's observation in the original decree:

> " . . . that an extraordinary amount of legal work was required because of the persistent refusal of respondent (Clayton) to accommodate in any way to essentially reasonable requests of the petitioner (Myrtle) . . . "

this very aptly describes Clayton's continuing attitude. Surely the time is long past when this propensity for discord should be discarded.

We find no merit to either of Clayton's claims. Accordingly, we affirm the trial court's denial of Clayton's motion to stay garnishment. Likewise, we affirm the trial court's dismissal, as frivolous, Clayton's application to modify the decree filed December 17, 1975. Costs are taxed to the appellant.

Affirmed.