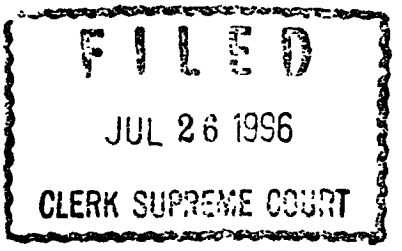
IN THE COURT OF APPEALS OF IOWA

No. 6-071 / 95-46



IN RE THE MARRIAGE OF JUDITH KAY HULSTEIN AND STANLEY DEAN HULSTEIN

Upon the Petition of
JUDITH KAY HULSTEIN,

Appellee,

And Concerning
STANLEY DEAN HULSTEIN,

Appellant.

Appeal from the Iowa District Court for O'Brien County, Joseph J. Straub, Judge.

Stanley Hulstein appeals from a modification of the parties' dissolution decree. **AFFIRMED.**

Daniel E. DeKoter of Corcoran, Skiver, Zito, DeKoter & Thole, P.L.C., Sibley, for appellant.

Randal G. Sease of Sease Law Firm, Hartley, for appellee.

Considered by Sackett, C.J., and Habhab, and Huitink, JJ.

PER CURIAM

This is an appeal by a husband claiming the district court improperly modified the parties' dissolution decree. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court Rule 9.

Judith and Stanley Hulstein were divorced in 1982. Under the terms of the dissolution decree, Judith was granted primary physical care of the parties' two minor children. Stanley was required to pay child support until each child reached the age of eighteen. The dissolution decree was modified in 1992 to increase Stanley's child support obligation. At that time, only the youngest child, Elizabeth, was a minor.

In May 1994, Judith filed a petition for modification seeking to extend the duration of Stanley's child support obligation based on the fact Elizabeth would turn eighteen in September 1994, but would not graduate from high school until May 1995. Additionally, Elizabeth planned to attend college and Judith requested that Stanley pay a portion of the college expenses.

The district court determined there had been sufficient changes in circumstances to warrant modification of the dissolution decree. The court ordered Stanley to pay child support of $500 per month from September 1994 until May 1995. If Elizabeth is enrolled as a full-time student in college, then beginning June 1995, Stanley must pay 50% of her college expenses, plus $125 per month for her support.

Stanley has appealed the modification of the parties' dissolution decree. He claims Judith knew in 1992 that Elizabeth would not have graduated from high school

when she turned eighteen and that she planned to attend college. He believes that because these matters were not addressed in the 1992 modification Judith may not raise them now.

Under Iowa Code section 598.21(8) (1993), a court may modify a dissolution decree where there has been a substantial change in circumstances. *In re Marriage of Salmon,* 519 N.W.2d 94, 96 (Iowa App. 1994). To justify modification of child support provisions, some material change must be shown in the circumstances of the parties, financially or otherwise, making it equitable that other or different terms be imposed. *In re Marriage of Smith,* 501 N.W.2d 558, 560 (Iowa App. 1993).

We find there has been a substantial change in circumstances which would allow a modification of the parties' dissolution decree. Since the 1992 modification, Judith had remarried and moved to California. In 1992, Elizabeth had been attending public high school in Iowa. In 1994, she was attending a private high school in California. Judith's net monthly income increased from $515 per month in 1992 to $1,152 per month in 1994. Stanley's net monthly income increased from $3,609 per month in 1992 to $3,900 per month in 1994.

We find it equitable that Stanley be required to pay child support for Elizabeth while she is in high school and that he contribute to her college expenses. We affirm the decision of the district court. Costs of this appeal are assessed to Stanley.

AFFIRMED.