FILED
FEB 09 1993
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 3-391 / 93-74

000033

IN RE THE MARRIAGE OF KAREN BLAIR AND VICTOR BLAIR

Upon the Petition of
KAREN BLAIR, n/k/a KAREN HABENICHT,
Petitioner-Appellant,

And Concerning
VICTOR BLAIR,
Respondent-Appellee.

Appeal from the Iowa District Court for Scott County, C.H. Pelton, Judge.

Petitioner appeals from the district court's modification of the parties' dissolution decree. **AFFIRMED.**

Harold J. Delange II, Davenport, for appellant.

William R. Stengel, Jr., of Coyle, Gilman & Stengel, Rock Island, Illinois, for appellee.

Considered by Donielson, P.J., and Hayden and Sackett, JJ.

SACKETT, J.

Petitioner-appellant Karen Blair n/k/a Karen Habenicht appeals a trial court order modifying her dissolution decree and awarding physical custody of her sons, born in 1981 and 1983, and her daughter, born in 1985, to their father respondent-appellee Victor Blair. We affirm.

The marriage of the parties was dissolved in 1987 and physical care of the three children was awarded to Karen. In August 1992, Victor filed a petition to change physical care and give it to him. On January 6, 1993, the trial court modified custody and awarded it to Victor and ordered Karen to pay child support.

To change the custodial provision of a dissolution decree, the applying party must establish by a preponderance of the evidence that conditions since the decree was entered have so materially and substantially changed that the children's best interests make it expedient to make the requested change. In re Marriage of Frederici, 338 N.W.2d 156, 158 (Iowa 1983). The party seeking to take custody from the other must prove an ability to minister more effectively to the children's well-being. Id.; see also In re Marriage of Gravatt, 371 N.W.2d 836, 838-40 (Iowa App. 1985).

This burden stems from the principle that once custody of a child has been fixed, it should be disturbed only for the most cogent reasons. In re Marriage of Mikelson, 299 N.W.2d 670, 671 (Iowa 1980).

> To change a custodial provision of a dissolution decree, the applying party must establish by a preponderance of evidence that conditions since the decree was entered have so materially and substantially changed that the children's best interests make it expedient to make the requested change. The changed circumstances must not have been contemplated by the court when the decree was entered, and they must be more or less permanent, not temporary. They must relate to the welfare of the children. A parent seeking to take custody from the other must prove an ability to minister more effectively to the children's well-being. The heavy burden upon a party seeking to modify custody stems from the principle that once custody of children has been fixed, it should be disturbed only for the most cogent reasons.

Frederici, 338 N.W.2d at 158.

The trial court found since the dissolution decree was entered Karen's character has been tarnished. Karen was convicted of possession of cocaine with the intent to deliver and was given a thirty-month probation. She admittedly smoked marijuana after her conviction. Karen admits she has a substance abuse problem. She attends Alcoholics Anonymous. She is making some effort to get an education and has occasional part-time work. The trial court also found Karen is in the circle or on the edge of the drug culture.

The court found since the dissolution Victor has matured and is stable. The court found he tried to help Karen work through her problems and only filed this petition when he learned she had not given up marijuana.

Victor's earnings have increased substantially since the dissolution while Karen's have not. However, he has delinquent child support.

We note the children are well adjusted in school although one child has missed substantial school.

We find no reason to disturb the trial court's decision.

AFFIRMED.