FILED
OCT 21 1980
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN THE MATTER OF ROBERT JOSEPH BALLARD AND PATRICIA ANN BALLARD

ROBERT JOSEPH BALLARD,)
Petitioner-Appellant,) Filed October 21, 1980
And Concerning)
PATRICIA ANN BALLARD,) 0-276
Respondent-Appellee.) 2-64454

Appeal from Linn District Court - Robert Osmundson, Judge.

Petitioner-father appeals trial court's ruling on his application for modification of child support provisions of a dissolution decree alleging that respondent-mother should have been ordered to pay more than $50 bi-weekly for child support. AFFIRMED WITH MODIFICATION.

Brian L. Gruhn, Cedar Rapids, Iowa, for petitioner-appellant.

Patricia Ann Ballard, pro se, Cedar Rapids, Iowa.

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

PER CURIAM

Petitioner-father appeals trial court's ruling on his application for modification of a dissolution decree alleging that respondent-mother should have been ordered to pay more than $50 bi-weekly for child support. We affirm trial court's finding that there has been a substantial change of circumstances, but modify the award to increase child support payment from $50 bi-weekly to $25 per week per child.

The parties' marriage was dissolved by decree on April 26, 1978. By stipulation, custody of the three children, then age 8, 6 and 3, was granted to petitioner. No child support was ordered due to petitioner's ability to support the children.

On October 11, 1979, petitioner filed an application for modification contending that, because his salary had decreased and expenses had increased, respondent should be ordered to pay child support. The court modified the decree to provide for child support of $50 bi-weekly from respondent. Petitioner's appeal challenges this provision.

I. **Scope of Review.** Our review of modification proceedings is **de novo.** Iowa R. App. P. 4. While we give weight to the trial court's finding of fact, especially with regard to credibility of witnesses, we are not bound by them. Iowa R. App. P. 14(f)(7). Respondent, pro se, filed no brief in these proceedings. We will limit our consideration to the issues and arguments raised in petitioner's brief. See County of Jefferson v. Barton-Douglas Contractors, Inc., 282 N.W.2d 155, 157 (Iowa 1979).

II. **Modification of Child Support Provisions.** Petitioner contends trial court's award of $50 bi-weekly is clearly inadequate and inequitable. He seeks $150 bi-weekly, asserting this would give him an opportunity to break even on a monthly basis. Petitioner claims his income has decreased from $16,000 to $11,000 annually since entry of the final decree, while respondent's has increased to $14,400 annually.

In seeking modification of the decree, petitioner must prove "a substantial change in circumstances from the time the decree was entered making it equitable and just that different terms be fixed." Ellis v. Ellis, 262 N.W.2d 265, 267 (Iowa 1978). A decree should not be modified unless enforcement of its provisions would be attended by positive wrong or injustice as a result of changed circumstances. Id. The substantial change relied on by petitioner must be permanent or continuous, not temporary. Spaulding v. Spaulding, 204 N.W.2d 634, 635 (Iowa 1973). The circumstances which have changed must be those that were not within the contemplation of the trial court when the original decree was entered or at the time of a subsequent intervening proceeding which considered modification of the original decree. In re Marriage of Full, 255 N.W.2d 153, 159 (Iowa 1977).

Trial court found that petitioner's income of $11,000 was approximately one-third less than at the time of the decree and that, even though respondent earned $14,400 annually, she claimed to have no funds for child support. Respondent also testified that she voluntarily bought clothes and paid other expenses for the children. The court concluded there had been a substantial change in petitioner's financial condition which, in combination with the decreased purchasing power of the dollar, warranted modification of the decree. We agree.

Guidelines for determining child support awards were set forth in In re Marriage of Zoellner, 219 N.W.2d 517, 525 (Iowa 1974). In addition, we note both parties are responsible for the support of their children, proportionately in accordance with their ability to pay. In re Marriage of Fleener, 247 N.W.2d 219, 221 (Iowa 1976). Applying the Zoellner guidelines to our review of the record, we conclude that trial court should have ordered respondent to contribute more substantially to the support of the children. Respondent's net income from her primary employment was approximately $175.00 per week at the time of the hearing; petitioner's was $191.00. Respondent also held a second job netting $160 per month, approximately. Although respondent's health problems may threaten her ability to continue secondary employment, we nonetheless consider this income as part of the record made below. both parties have considerable debts. We note, however, that the bulk of respondent's installment debts were of limited duration, thus leaving her with an increased ability to contribute to the support of her children. In light of these circumstances, we conclude trial court's order reflects an inequitable assessment of the parties' abilities to contribute to the support of their children and, consequently, modify the original decree to require respondent to pay child support in the total amount of $25.00 per week per child. Support for each child shall continue until the child reaches age eighteen or has graduated from high school, whichever occurs later. Respondent's increased obligation shall commence upon filing of this opinion.

AFFIRMED WITH MODIFICATION.