

IN THE COURT OF APPEALS OF IOWA

No. 0-398 / 89-1693

FILED

NOV 29 1990

CLERK SUPREME COURT

IN RE THE MARRIAGE OF BARBARA L. SMITH AND GORDON R. SMITH

Upon the Petition of
BARBARA L. SMITH,

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Appellant,

And Concerning
GORDON R. SMITH,

Appellee.

Appeal from the Iowa District Court for Polk County,
Joel D. Novak, Judge.

The wife appeals a judgment of the district court
refusing to modify the parties' existing decree to extend
alimony beyond the termination date. **AFFIRMED.**

Roger J. Kuhle of the Law Offices of Roger J. Kuhle,
P.C., Des Moines, for appellant.

Gary D. Ordway and Ronald M. Rankin of Patterson,
Lorentzen, Duffield, Timmons, Irish, Becker & Ordway,
Des Moines, for appellee.

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

PER CURIAM

The twenty-two year marriage of Barbara and Gordon Smith was dissolved by decree on February 29, 1980. The decree provided Gordon was obligated to pay \$100 per month per child and \$700 per month alimony. The alimony terminated when the youngest child reached age eighteen.

Barbara filed for a modification for extension of alimony. Barbara pointed out her net income was \$658.43 per month, while Gordon netted over \$3000 per month.

The trial court held the trial court contemplated at the time of the decree Barbara's alimony should terminate when she was in a position to obtain full-time employment. Barbara has in fact worked full-time for several years. The trial court found there was not the requisite substantial change in circumstances and denied modification.

Barbara appeals.

Our review of this case is de novo. Iowa R. App. P. 4. We are not bound by the trial court's findings of facts, but give them weight. Iowa R. App. P. 14(f)(7).

Modification of the alimony provisions of a dissolution decree is justified only if there has been some material and substantial change in the circumstances of the parties, financially or otherwise, making it equitable that other terms be imposed. Thayer v. Thayer, 286 N.W.2d 222, 223 (Iowa App. 1979). The burden rests on the party seeking modification to establish such a change of circumstances by

a preponderance of the evidence. Id.; Mears v. Mears, 213 N.W.2d 511, 513 (Iowa 1973). Circumstances that have changed, to justify modification of alimony, must be those that were not within contemplation of the trial court when the original decree was entered. In re Marriage of Full, 255 N.W.2d 153, 159 (Iowa 1977). Such changes must be more or less permanent or continuous, not temporary. In re Marriage of Carlson, 338 N.W.2d 136, 141 (Iowa 1983).

The knowledge of the trial court at the time the award is made is the basis for determining whether there has been a change of circumstances. Full, 255 N.W.2d at 159; Leo v. Leo, 213 N.W.2d 495, 496 (Iowa 1973). The original decree is entered with a view to reasonable and ordinary changes that may be likely to occur in the relations of the parties. Mears, 213 N.W.2d at 514.

We have carefully reviewed the facts and the cases presented. We determine there has not been the substantial change in circumstances required for a modification. We affirm the trial court. Costs of appeal are assessed to appellant.

AFFIRMED.