**IN THE COURT OF APPEALS OF IOWA**

No. 23-0638
Filed March 6, 2024

**IN RE THE MARRIAGE OF SARAH ANNE SCHULER AND SCOTT ALAN SCHULER**

**Upon the Petition of**
**SARAH ANNE SCHULER,**
Petitioner-Appellee,

**And Concerning**
**SCOTT ALAN SCHULER,**
Respondent-Appellant.

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Appeal from the Iowa District Court for Poweshiek County, Shawn Showers, Judge.

The father appeals from a ruling declining to modify child-support obligations. The mother requests appellate attorney fees. **AFFIRMED.**

C. Aron Vaughn of Kaplan & Frese, LLP, Marshalltown, for appellant.

Reyne L. See of Peglow, O'Hare & See, P.L.C., Marshalltown, for appellee.

Considered by Tabor, P.J., and Buller and Langholz, JJ.

**BULLER, Judge.**

In a stipulated dissolution decree, Scott Schuler agreed to pay child support for each of his and Sarah Schuler's children until the children turned eighteen and graduated high school, married, died, or "otherwise become self-supporting." As of an April 2023 modification hearing, one of the minor children had a child of her own and had recently moved in with her boyfriend; the other child planned to participate in a foreign-exchange program for the upcoming academic year. Scott asserts these facts warrant ending his child-support obligation or deviating from the child-support guidelines. In response, Sarah defends the district court's decision denying Scott's requests. She also requests appellate attorney fees.

As of the modification hearing, B. was a seventeen-year-old high school junior. She gave birth to a child the year before. After the baby was born, B. and the father (G.) split their time between Sarah's home and the home of G.'s parents. About two weeks before the hearing, B. and G. rented a home of their own. But B. and G. relied on Sarah and G.'s parents for financial assistance, even though B. was working part-time as a waitress and G. (age sixteen) worked full-time at a tire retailer. Sarah provided B. with money for groceries, gas, and clothing, and she supplied consumables like diapers and formula. Sarah testified that, if B. living with G. did not work out, she expected B. to move home.

Meanwhile, A. was fifteen years old and had been accepted into a foreign-exchange program for the next school year. Sarah anticipated financially supporting A.'s needs while she was abroad, such as providing school supplies, transportation, and clothing. The family's contribution to the cost of the program

was estimated to be between $5000 and $10,000. Sarah did not expect any financial contribution from Scott outside of child support.

Scott earned $66,000 per year as a salaried employee, and Sarah earned just over $20,000 in wages and tips. Sarah testified she had little savings and the costs of litigation had been a financial burden, while Scott had savings of more than $21,000. Sarah also explained the "primary" purpose of litigation to modify the stipulated decree was to obtain physical care of the minor children because they did "not want to be near their father" or "stay with him at all" based on past problems. Sarah prevailed on that issue when Scott stipulated to the physical-care change before the hearing, and she prevailed on all other issues in the final ruling.

On appeal, Scott first challenges whether his child-support obligation for B. should continue. Our review is de novo. *In re Marriage of Maher*, 596 N.W.2d 561, 564 (Iowa 1999). We agree with the district court that B. having a child of her own and residing with the sixteen-year-old father "does not alter [Scott]'s support obligation to his minor child." Our unpublished case law supports that conclusion, which we re-affirm. *See Bedford v. Bedford*, No. 07-1536, 2008 WL 681138, at *2 (Iowa Ct. App. Mar. 14, 2008) (finding child-support obligation did not terminate when child had a child of her own "out of wedlock" but still attended high school and depended on parents for financial support). Beyond this precedent, Scott is also bound by the language of the stipulated dissolution decree, and we agree with the district court that B. is not "self-supporting" on her part-time waitress wages, as shown by G. working full-time and Sarah (and G.'s family) providing financial support. *See Self-Supporting*, Oxford English Dictionary, https://www.oed.com/search/dictionary/?scope=Entries&q=self-supporting (last

accessed Feb. 29, 2024) ("Having the resources to be able to survive, without requiring external assistance . . . .").

Next, Scott contends the district court erred in declining to deviate from the child-support guidelines based on B. living with G. and A. planning to study abroad. When appropriate, the court has some discretion to deviate from the application of the child-support guidelines. *See In re Marriage of Thede*, 568 N.W.2d 59, 61 (Iowa Ct. App. 1997). But a child-support calculation based on the guidelines is presumed correct; any variation requires a record or written findings that doing so is "necessary to provide for the needs of the children or to do justice between the parties under the special circumstances of the case." Iowa Ct. R. 9.4; *see* Iowa Code § 598.21B(2)(c)–(d) (2022); *In re Marriage of McDermott*, 827 N.W.2d 671, 684–86 (Iowa 2013). At the modification hearing, Scott did not develop any facts showing Sarah's support of B. or A. in the coming year would be significantly different than if both were living in Sarah's home under more traditional arrangements. And it is undisputed Sarah is still providing significant financial support for both children. With no evidence to the contrary, we agree with the approach taken by the district court.

As for Sarah's request for appellate attorney fees, Scott did not file a reply brief and left Sarah's request uncontested. Even if Scott had resisted, however, we would exercise our discretion to order him to pay Sarah's appellate attorney fees: she prevailed in every aspect of litigation below and on appeal, she had a duty to defend the district court, and there is a significant income and savings disparity between the parties. *See* Iowa Code § 598.36 (allowing the court to award attorney fees to the prevailing party in a proceeding to modify a decree);

*McDermott*, 827 N.W.2d at 687 (on factors relevant to ordering appellate attorney fees). We order Scott to pay $2500 of Sarah's appellate attorney fees based on our review of the fee affidavit filed by Sarah's attorney.

**AFFIRMED.**