

IN THE COURT OF APPEALS OF IOWA

No. 0-678 / 10-0088
Filed October 6, 2010

**IN RE THE MARRIAGE OF
KELLEY SUE SMITH and
CRAIG A. SMITH**

**Upon the Petition of
KELLEY SUE SMITH,**
Petitioner-Appellee,

**And Concerning
CRAIG A. SMITH,**
Respondent-Appellant.

Appeal from the Iowa District Court for Grundy County, Bradley J. Harris,
Judge.

Craig Smith appeals from the district court's modification of his child
support obligation. **AFFIRMED AS MODIFIED.**

Robert W. Thompson of Thompson Law Office, Reinbeck, for appellant.

Melissa A. Nine and Barry S. Kaplan of Kaplan, Frese & Nine, L.L.P.,
Marshalltown, for appellee.

Considered by Sackett, C.J., and Potterfield and Tabor, JJ.

POTTERFIELD, J.

Craig Smith appeals from the district court's modification of his child support obligation, complaining the court erred in increasing his support obligation where no guideline calculations were submitted to the court. Having failed to provide the petitioner with income information until trial, and having failed to provide his own child support guideline worksheets, we will not hear appellant's complaint that the court improperly imputed income to him and miscalculated his child support obligation under the guidelines.

Our de novo review of the record made before the district court supports the award made, finding only a scrivener's error. The district court properly imputed income to both parties and made the required findings to do so. The court's calculations were based on the income figures stated in its ruling and a determination of child support under the guidelines. We affirm the court's child support determination, but note that an apparent scrivener's error resulted in a \$39 increase from the \$956.59 per month resulting from application of the guidelines, to \$995 per month in the decretal portion of the ruling. We modify the decree to provide that Craig pay child support in the amount of \$956.59 per month, *see In re Marriage of Hansen*, 733 N.W.2d 683, 703 (Iowa 2007), and otherwise affirm. *See* Iowa Ct. R. 21.29(1)(a), (c), (e).

We grant Kelley \$1000 in appellate attorney fees. *See In re Marriage of Kurtt*, 561 N.W.2d 385, 389 (Iowa Ct. App. 1997) (noting an award of appellate attorney fees is not a matter of right, but rests within the court's discretion). Costs on appeal are assessed to Craig.

AFFIRMED AS MODIFIED.