

**IN THE COURT OF APPEALS OF IOWA**

No. 2-500 / 11-1249  
Filed September 19, 2012

**IN RE THE MARRIAGE OF  
MARCAY D. HANSEN AND  
MICHAEL E. HANSEN**

**Upon the Petition of  
MARCAY D. HANSEN,**  
Petitioner-Appellant,

**And Concerning  
MICHAEL E. HANSEN,**  
Respondent-Appellee.

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Appeal from the Iowa District Court for Warren County, Randy V. Hefner,  
Judge.

Petitioner appeals the denial of her motion to modify the spousal support  
provision of her decree of dissolution of marriage. **AFFIRMED.**

Scott L. Bandstra and Karmen Anderson of Bandstra Law Firm, Des  
Moines, for appellant.

Andrew B. Howie of Hudson, Mallaney, Shindler & Anderson, P.C., West  
Des Moines, for appellee.

Considered by Vogel, P.J., and Tabor and Bower, JJ.

**VOGEL, P.J.**

The marriage of Mar cay D. Hansen and Michael E. Hansen was dissolved by stipulated decree on July 1, 2008. In addition to various marital assets, the decree awarded Mar cay twenty-four months of spousal support<sup>1</sup> in the amount of \$800.00 per month. On July 2, 2010, only a few weeks before the expiration of the support period, Mar cay sought modification of the decree. Pointing to her inability to obtain full-time employment due to her mental health issues, as well as the downturn in the economy, Mar cay sought an indefinite continuation in support and an additional \$200 per month to cover the cost of medical insurance. After a trial of the matter, the district court denied the modification request, and Mar cay appeals.

In conducting our de novo review, Iowa R. App. P. 6.907, we agree modification was not warranted. Mar cay is not entitled to a modification of the support, as she has failed to demonstrate the requisite substantial and material change in circumstances. Iowa Code § 598.21C (2009); *In re Marriage of Kupferschmidt*, 705 N.W.2d 327, 331 (Iowa Ct. App. 2005). If a change is to support modification, it cannot be within the contemplation of the trial court at the time the decree is entered. *In re Marriage of Wessels*, 542 N.W.2d 486, 489-90 (Iowa 1995). As correctly noted by the district court, the changes in Mar cay's health were matters within the court's contemplation when the stipulated decree was approved. The extensive medical records provided show her mental health issues predate the decree and Mar cay has not proven by a preponderance of the

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<sup>1</sup> The stipulation did not specify the nature of the spousal support, providing only that it would terminate upon the death of either party or Mar cay's remarriage.

evidence that her change is substantial and unanticipated. See *In re Marriage of Full*, 255 N.W.2d 153, 159 (Iowa 1977).

Iowa case law allows for rehabilitative alimony, that which is to support an economically dependent spouse through a limited period of education or retraining following the divorce, to be extended and made permanent in extreme situations. *Wessels*, 542 N.W.2d at 487-89 (citations omitted). It must be in rare situations, where the “later occurrences are so extreme in their nature as to render the initial understanding grossly unfair and therefore subject to change.” *Id.* at 489. The evidence Marcay presented does not satisfy the high burden to prove her decline in mental health is “so extreme” to warrant permanent alimony. When Marcay’s treating physician was asked if Marcay’s mental health condition was different or worse since July 1, 2008, the doctor responded by saying, “I think it’s different.” She continued by explaining that Marcay’s depression is more “day-to-day,” which interferes with her ability to find employment; on the positive side, her paranoia has decreased. We agree with the district court, that while Marcay continues to struggle with depression, there is not such a change in Marcay’s mental health that would “demand that the original order cannot, in fairness and equity, continue to stand.” *Id.* at 489.

Marcay also claims that when the decree was entered into in 2008 it was not anticipated that the economy and job market would deteriorate to such an extent. In determining whether a substantial change of circumstances has occurred, Iowa Code section 598.21C(1)(a) states the court shall consider “[c]hanges in the employment, earning capacity, income, or resources of a party.” At the time the decree was entered, Marcay anticipated finding a job, but

remained unemployed at the time of the modification trial. While we sympathize with Marçay's difficulties in securing employment, we cannot accept her argument that a general decline of the economy should warrant a modification. Unable to meet the high burden of showing a substantial change of circumstances we decline to modify the support award, and therefore affirm the district court's ruling.

**AFFIRMED.**