

IN THE COURT OF APPEALS OF IOWA

No. 3-193 / 12-1463
Filed March 27, 2013

**IN RE THE MARRIAGE OF STEPHANIE A. MORRIS
AND BRETT A. MORRIS**

**Upon the Petition of
STEPHANIE A. MORRIS,**
Petitioner-Appellee,

**And Concerning
BRETT A. MORRIS,**
Respondent-Appellant.

Appeal from the Iowa District Court for Warren County, Gary G. Kimes,
Judge.

Respondent appeals the district court order modifying the physical care
provision of the parties' dissolution decree. **AFFIRMED.**

Christopher Kragnes of Kragnes & Associates, P.C., Des Moines, for
appellant.

Julie C. Gray of Patterson Law Firm, L.L.P., Des Moines, for appellee.

Considered by Tabor, P.J., Mullins, J., and Mahan, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2013).

MAHAN, S.J.

Brett and Stephanie Morris were previously married and have two minor children. A dissolution decree, based on the parties' agreement, was entered on March 24, 2011. Under the decree, the parties had joint legal custody and joint physical care of the children.

After the dissolution, the parties' relationship deteriorated. Based on Brett's conduct, he pleaded guilty to harassment in the second degree and was placed on probation. An order of protection was entered prohibiting Brett from having contact with Stephanie for five years. The parties have to rely on intermediaries to exchange the children and to communicate about them.

On September 27, 2011, Stephanie filed a petition seeking to modify the physical care provisions of the dissolution decree. After a hearing, the court modified the decree to give Stephanie physical care of the children. Brett was granted visitation.

Brett has appealed the decision of the district court. He claims: (1) there had not been a substantial and material change in circumstances; (2) Stephanie failed to show she could minister more effectively to the children's needs; and (3) he should receive more visitation.

After carefully considering the record presented on appeal, we find no need to further refine upon the district court's decision. The joint physical care arrangement was no longer in the children's best interests and was properly modified. See *In re Marriage of Hansen*, 733 N.W.2d 683, 700 (Iowa 2007) (finding joint physical care is appropriate only when it is in the children's best interests). We affirm the district court's decision modifying the decree to place

the children in the physical care of Stephanie and modifying the parties' visitation schedule.

Stephanie seeks attorney fees for this appeal. In determining whether to award appellate attorney fees, we consider the needs of the party seeking the award, the ability of the other party to pay, and the relative merits of the appeal. *In re Marriage of Okland*, 699 N.W.2d 260, 270 (Iowa 2005). We determine Brett should pay \$1000 toward Stephanie's appellate attorney fees.

We affirm the decision of the district court. Costs of this appeal are assessed to Brett.

AFFIRMED.