

IN THE COURT OF APPEALS OF IOWA

No. 3-758 / 12-2001
Filed September 5, 2013

JOHN PAUL LYNOTT,
Plaintiff-Appellant,

vs.

PATRICIA ANN LECATES f/k/a
PATRICIA ANN ROSALES,
Defendant-Appellee.

JOHN PAUL LYNOTT,
Plaintiff,

vs.

IOWA DISTRICT COURT FOR
WOODBURY COUNTY,
Defendant.

Appeal from the Iowa District Court for Woodbury County, James D. Scott,
Judge.

John Lynott appeals, contending the district court erred in the procedure used at the hearing, in modifying the visitation arrangement, in finding him in contempt, in denying his application for rule to show cause, and in awarding Patricia Lecates attorney fees. **AFFIRMED.**

John Paul Lynott, Sioux City, appellant pro se.

Elizabeth A. Rosenbaum, Sioux City, for appellee.

Considered by Potterfield, P.J., and Mullins and Bower, JJ.

POTTERFIELD, P.J.

John Lynott again appeals from a ruling concerning custody and visitation with his child. On this occasion, the district court modified Lynott's visitation, found Lynott in contempt of a prior court order, and denied Lynott's application for a rule to show cause.

We find no need to repeat the long history of litigation between these parties, most of which was set out in *Lynott v. Rosales*, No. 10–1369 (Iowa Ct. App. April 27, 2011). It is sufficient to say that Lynott has not been satisfied by prior court rulings and that his “obsessive” behavior concerning his child has resulted in modification from joint legal custody and physical care, to sole legal custody and physical care with the child's mother, Patricia Lecates (formerly Patricia Rosales), and now a modification of the visitation schedule from less specific to very detailed. Moreover, Lynott's picketing around his child's home, school, doctors' offices, and other areas of the child's home town and other cities has resulted in the court entering a permanent injunction against him. At the time of the modification hearing, he was facing criminal harassment charges.

On appeal, Lynott contends the district court erred in the procedure used at the hearing, in modifying the visitation arrangement, in finding him in contempt, in denying his application for rule to show cause, and in awarding Lecates attorney fees.

We find the district court's finding of contempt is fully supported by the record in that Lynott willfully disregarded the court's previous order not to give the child over-the-counter medication without the knowledge and consent of Lecates. See *In re Marriage of Stephens*, 810 N.W.2d 523, 529-30 (Iowa Ct. App. 2012)

(stating appeal from a finding of contempt is limited to determining whether the district court acted illegally or without jurisdiction and noting a finding of contempt must be established by proof beyond a reasonable doubt).

As for the remainder of the court's order, we have thoroughly reviewed the record de novo, see Iowa R. App. P. 6.904(3)(g), and we find no reason to modify the district court's ruling in any manner. See Iowa R. App. P. 6.1203 (a), (d).

Lecates has requested appellate attorney fees. An award of appellate attorney fees is not a matter of right, but rests within the appellate court's discretion. *In re Marriage of Kurtt*, 561 N.W.2d 385, 389 (Iowa Ct. App. 1997). We consider the needs of the party making the request, the ability of the other party to pay, and whether the party making the request was obligated to defend the district court's decision on appeal. *In re Marriage of Maher*, 596 N.W.2d 561, 568 (Iowa 1999). We award appellate attorney fees to Lecates in the amount of \$5000.

Costs are assessed to Lynott.

AFFIRMED.