

IN THE COURT OF APPEALS OF IOWA

No. 6-282 / 05-1573
Filed May 10, 2006

**IN RE THE MARRIAGE OF MICHELLE A. BACH
AND MICHAEL A. BACH**

**Upon the Petition of
MICHELLE A. BACH,
n/k/a MICHELLE A. STEFFES,**
Petitioner-Appellee,

**And Concerning
MICHAEL A. BACH,**
Respondent-Appellant.

Appeal from the Iowa District Court for Carroll County, Gary L.
McMinimee, Judge.

Michael A. Bach appeals the district court's ruling reducing Michelle's child support obligation and dismissing his counterclaim concerning medical insurance. **AFFIRMED.**

A. Eric Neu of Neu, Minnich, Comito, & Hall, P.C., Carroll, for appellant.

Joseph Halbur, Carroll, for appellee.

Considered by Mahan, P.J., and Hecht and Eisenhauer, JJ.

MAHAN, P.J.

Michael A. Bach appeals the district court's ruling reducing Michelle's child support obligation and dismissing his counterclaim concerning medical insurance. First, he argues the child support should not have been reduced because any change made by his former wife, Michelle Steffes, was voluntary. Second, he argues his own substantial change warrants a modification assigning the responsibility for medical insurance to Michelle. We affirm.

I. Background Facts and Proceedings

Michael and Michelle were married February 7, 1987. They have three sons, born January 20, 1988; February 21, 1990; and February 11, 1995, respectively. The couple dissolved their marriage by stipulation on March 25, 1999. Initially, Michelle had primary physical care of the boys, while Michael paid child and medical support. In February 2000 the parties stipulated to switch primary physical care to Michael. Michelle paid child support, but medical support was left with Michael. In March 2003 the parties stipulated to increase Michelle's child support to \$410 per month. Michelle stipulated to an income based on nine dollars per hour for a forty-hour week, even though she only worked twenty hours per week.

Sometime after the dissolution, Michelle remarried and had two daughters.¹ In September 2004 her oldest daughter, Grace, was diagnosed with leukemia. Michelle quit her job to care for her daughter. She admits she could work twenty hours per week and still care for her daughter, but that a full-time position would be out of the question.

¹ At the time of trial, the girls were ages five and two, respectively.

Michelle brought this petition to modify her child support obligation on November 29, 2004. She requested that the decree be modified to set support pursuant to the child support guidelines. She alleges her daughter's illness constituted a substantial change not contemplated by the parties. On March 10, 2005, Michael filed a counterclaim requesting an increase in support and modification of the medical provisions to require Michelle to either provide medical insurance or reimburse Michael for premium expenses. He alleges his reduction in income constitutes a substantial change.

Trial was held on July 20, 2005. At trial, Patricia Rauwson, the Steffes's pediatric oncology social worker, testified that it was best not to send Grace to daycare due to the possibility of infection from other children. She also testified that a child in Grace's condition was better off at home than in the hospital. Finally, she admitted it was possible for Michelle to work part-time, but stated that, due to the complicated nature of the disease and drug regimen, it was best for a single person to be consistently responsible for caring for and administering drugs to Grace. If the regimen is not followed, Grace will die.

The district court concluded Michelle's daughter's illness constituted a substantial change, and reduced her child support obligations to one hundred dollars per month for three children, seventy-five dollars per month for two children, and fifty dollars per month for one child. It dismissed Michael's counterclaim. Michael appeals the reduction of Michelle's support obligation and the dismissal of his request for medical insurance.

II. Standard of Review

We review de novo. Iowa R. App. P. 6.4. De novo review requires us to review the record anew. *In re Marriage of Salmon*, 519 N.W.2d 94, 95 (Iowa Ct. App. 1994). Though they do not bind us, we give weight to the district court's credibility determinations. Iowa R. App. P. 6.14(6)(g).

III. Merits

Michael argues Michelle's child support should not be reduced for two reasons. First, he relies on a number of cases indicating that for an obligor in a multiple family situation to reduce child support below the guideline amount, the obligor must show there are insufficient funds remaining for the support of the second family after paying the guideline amount. See e.g., *State ex rel. Nielsen v. Nielsen*, 521 N.W.2d 735, 738 (Iowa 1994); *State ex rel. Reaves v. Kappmeyer*, 514 N.W.2d 101, 104 (Iowa 1994); *State ex rel. Nicholson v. Toftee*, 494 N.W.2d 694, 698 (Iowa 1993); *State ex rel. Epps v. Epps*, 473 N.W.2d 56, 58 (Iowa 1991). Second, he argues Michelle has voluntarily reduced her income. He claims that by having additional children, she assumed the risk that they may become ill or prevent her from working in some other way. As a result, he argues her child support should not be reduced due to her voluntary actions. See *In re Marriage of Nelson*, 570 N.W.2d 103, 106 (Iowa 1997); *Moore v. Kriegel*, 551 N.W.2d 887, 889-90 (Iowa Ct. App. 1996).

We find both of Michael's arguments unpersuasive. First, the cases concerning second families do not apply. Michelle is not attempting to reduce her support below the statutory guidelines. In fact, she petitioned to have her support reduced to the actual guideline amount. Thus, the district court correctly

determined under the child support guidelines that Michelle's child support obligation is one hundred dollars per month for three children, seventy-five dollars per month for two children, and fifty dollars per month for one child.

Second, we do not agree that caring for a grievously ill child is voluntary, or that people assume a risk that their child might become ill when they decide to have that child. This determination comports with our prior case law on modification due to voluntary income reduction. See *In re Marriage of Walters*, 575 N.W.2d 739, 741-44 (Iowa 1998) (reducing child support to maintain equity between the parties where incarcerated father voluntarily participated in criminal activity, but child support payments nearly equaled his net monthly pay); *In re Marriage of Swan*, 526 N.W.2d 320, 323-25 (Iowa 1995) (concluding resignation was involuntary and reducing child support where father sustained work-related injury, could not continue in current employment, and made reasonable decision to seek vocational training); *In re Marriage of Foley*, 501 N.W.2d 497, 500 (Iowa 1993) (concluding loss of income was involuntary after father was terminated for insubordination); *In re Marriage of Dawson*, 467 N.W.2d 271, 275-76 (Iowa 1991) (concluding loss of income was self-inflicted and refusing to reduce child support obligations where father quit job to pursue education); *In re Marriage of Vetternack*, 334 N.W.2d 761, 763 (Iowa 1983) (refusing to reduce child support where incarcerated father had equity that could satisfy his obligation); *Ellis v. Ellis*, 262 N.W.2d 265, 267-68 (Iowa 1978) (concluding income reduction was self-inflicted and refusing to reduce child support where father with remaining earning capacity retired); *Reed v. Reed*, 260 Iowa 1166, 1168-69, 152 N.W.2d 190, 191 (1967) (refusing to reduce child support where father voluntarily

terminated employment to pursue education); *In re Marriage of Fidone*, 462 N.W.2d 710, 712 (Iowa Ct. App. 1990) (concluding loss of income was involuntary and reducing child support where father would have to move 1200 miles to maintain employment).

Michael also argues responsibility for medical insurance should be shifted to Michelle. He asserts a reduction in his income warrants the modification. However, he fails to give any details regarding his assertion. He also fails to provide citation to either the record or any legal authority to support his argument. See Iowa R. App. P. 6.14(c) ("Failure in the brief to state, to argue, or to cite authority in support of an issue may be deemed waiver of that issue.") Iowa Code section 598.21(8) (2003) requires a substantial change in circumstances for us to modify a support decree. Since Michael has failed to argue any substantial change, his claim is dismissed.

The district court's ruling is affirmed.

AFFIRMED.