

IN THE COURT OF APPEALS OF IOWA

No. 8-270 / 07-1020
Filed May 14, 2008

**Upon the Petition of
CHRISTOPHER A. IRWIN,**
Petitioner-Appellee,

**And Concerning
LORI L. SMOLDT,**
Respondent-Appellant.

Appeal from the Iowa District Court for Polk County, Don C. Nickerson,
Judge.

The respondent appeals following the district court's modification order.

AFFIRMED.

Steven P. Wandro and Jill E. Southworth of Wandro & Baer, P.C., Des
Moines, for appellant.

Catherine Dietz-Kilen of Harrison & Dietz-Kilen, Des Moines, for appellee.

Considered by Sackett, C.J., and Huitink and Mahan, JJ.

MAHAN, J.

We have reviewed de novo the evidence presented before the district court and applied the appropriate law to said evidence. We conclude, as did the district court, that the petitioner has shown by a preponderance of evidence a material and substantial change in circumstances. We further conclude the petitioner has shown a superior ability to care for the special needs of this child. A review of the record indicates the district court did not abuse its discretion in failing to award the respondent trial attorney fees, and we deny respondent's request for appellate attorney fees.

AFFIRMED.