

IN THE COURT OF APPEALS OF IOWA

No. 8-600 / 07-1030
Filed August 27, 2008

**IN RE THE MARRIAGE OF MARY BETH HASLEY
AND EARL ANDREW HASLEY III**

**Upon the Petition of
MARY BETH HASLEY,
n/k/a MARY BETH KRANTZ,**
Petitioner-Appellant,

**And Concerning
EARL ANDREW HASLEY III,**
Respondent-Appellee.

Appeal from the Iowa District Court for Polk County, Martha L. Mertz,
Judge.

Petitioner appeals the district court decision modifying the child support provisions of the parties' dissolution decree. **AFFIRMED.**

Theodore F. Sporer of Sporer & Ilic, P.C., Des Moines, for appellant.

Alexander Rhoads of Babich, Goldman, Cashatt & Renzo, P.C., Des
Moines, for appellee.

Considered by Mahan, P.J., and Vaitheswaran, J., and Robinson, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2007).

ROBINSON, S.J.**I. Background Facts & Proceedings**

A dissolution decree for Mary Krantz (Beth) and Earl Hasley (Andrew) was issued on December 14, 2001. The decree granted the parties joint legal custody of their daughter, Molly, and placed the child in the physical care of Beth. Andrew was ordered to pay child support of \$380 per month.

On April 11, 2003, Beth filed a petition seeking to modify Andrew's child support obligation. Andrew filed a petition for modification on April 29, 2003, raising the issues of child support and visitation. Since the time of the dissolution decree, Andrew obtained a different job and moved from Des Moines to Spencer, Iowa. The incomes of both parties increased. Beth's income is much greater than that of Andrew.

The district court entered an order on May 11, 2007, modifying the parties' dissolution decree. The court found there had been a substantial change in circumstances since both parties' incomes had increased by more than ten percent. See Iowa Code § 598.21(9) (2003). The court considered the parties' wages, and determined Andrew's child support obligation should be increased to \$570 per month, effective June 1, 2007. The court denied Beth's request for retroactive child support. Beth now appeals the court's denial of her request to have Andrew's increase in child support made retroactive to three months before she filed her petition for modification.

II. Standard of Review

This case was tried in equity, and our review is de novo. Iowa R. App. P. 6.4. “In equity cases, especially when considering the credibility of witnesses, the court gives weight to the fact findings of the district court, but is not bound by them.” Iowa R. App. P. 6.14(6)(g).

III. Merits

Iowa Code section 598.21(8) provides that child support payments “which are subject to a modification proceeding may be retroactively modified only from three months after the date the notice of the pending petition for modification is served on the opposing party.” Under this section, the district court has discretion to retroactively increase child support. *McIntire v. Leonard*, 518 N.W.2d 793, 794 (Iowa 1994). Therefore, we review to determine whether the district court abused its discretion. *In re Marriage of Ober*, 538 N.W.2d 310, 313 (Iowa Ct. App. 1995).

We give deference to the decision of the district court. The court’s decision was well written and well reasoned. After a careful review of the record, we find no abuse of discretion by the district court.

IV. Attorney Fees

Andrew asks for appellate attorney fees. An award of attorney fees is not a matter of right, but rests within the court’s discretion. *In re Marriage of*

Romanelli, 570 N.W.2d 761, 765 (Iowa 1997). We determine each party should pay his or her own appellate attorney fees. Costs of this appeal are assessed to Beth.

AFFIRMED.