

IN THE COURT OF APPEALS OF IOWA

No. 8-734 / 08-0583
Filed October 1, 2008

**IN RE THE MARRIAGE OF RACHEL A. JOHNSON
AND SCOTT A. JOHNSON**

**Upon the Petition of
RACHEL A. JOHNSON,**
Petitioner-Appellee,

**And Concerning
SCOTT A. JOHNSON,**
Respondent-Appellant.

Appeal from the Iowa District Court for Bremer County, Colleen D.
Weiland, Judge.

Scott Johnson appeals a district court order modifying various aspects of a
dissolution decree. **AFFIRMED.**

DeDra Schroeder of Schroeder Law Office, Charles City, for appellant.
Karen Thalacker of Gallagher, Langlas & Gallgher, P.C., Waverly, for
appellee.

Considered by Mahan, P.J., and Vaitheswaran and Doyle, JJ.

VAITHESWARAN, J.

Scott Johnson appeals a district court order modifying various aspects of a dissolution decree. We affirm.

I. Background Facts and Proceedings

Scott and Rachel Johnson married in 2004, had one child, and divorced in 2006. The district court granted Rachel physical care of the child. The court awarded Scott visitation every Tuesday and Thursday night, on alternating weekends and holidays, on Father's Day, and for four weeks in the summer, with Scott held responsible for transportation. The court ordered Scott to pay \$325 per month in child support, maintain health insurance for the child, and pay a proportionate share of uncovered medical expenses in excess of \$250. Finally, the court allowed Scott to claim the child as a dependent on his income taxes as long as he stayed current on his child support payments.

Rachel subsequently moved to Minnesota, making visitation cumbersome. Scott petitioned for a modification of the physical care arrangement or the visitation provisions. Before a hearing was held, he agreed to have Rachel remain the primary caretaker. He also agreed to forego mid-week visitation and instead exercise a longer period of alternating weekend visitation.

At the hearing, Scott sought a reduction of child support, an order requiring Rachel to carry health insurance, more summer visitation, and visitation during every spring break.

Following the hearing, the district court modified the visitation schedule to recognize the changes the parents had implemented, but ordered that weekend visitation return to a Friday-Sunday schedule once the child began kindergarten.

The court afforded Scott six rather than four weeks of summer visitation, as he requested, denied Scott's request to have the child every spring break, ordered the parents to split the Christmas-New Year break, and ordered the parents to cooperate with transportation on Independence Day. The court also ordered the parents to split the 390 mile round-trip transportation costs associated with visitation.

With respect to the financial provisions relating to the child, the court increased Scott's child support from \$325 to \$342 per month, made Rachel responsible for health insurance, and ordered Scott to pay forty-two percent of the child's uncovered medical expenses above \$250 annually. Finally, the court ordered the parties to alternate the dependent exemption.

Scott moved to enlarge the court's findings and conclusions. That motion was denied and Scott appealed. Our review is de novo. Iowa R. App. P. 6.4.

II. Analysis

A. Visitation. To justify a modification of visitation, a party must establish a change of circumstances not contemplated by the district court at the time the decree was entered. See *In re Marriage of Rykhoek*, 525 N.W.2d 1, 3 (Iowa Ct. App. 1994). There is no question Rachel's move of more than one-hundred fifty miles amounted to a substantial change of circumstances. The only question is whether the modified visitation schedule should be adjusted even further.

Scott argues that visitations should begin at 3:00 p.m. instead of 5:00 p.m., the court should specify when his portion of Christmas-New Year visitation will begin and when Independence Day visitation will begin and end, he should

have the child during every spring break, and he should have nine to twelve weeks of summer visitation.

Beginning with Scott's request for additional summer visitation, we agree with Rachel that this request is inconsistent with Scott's position at the modification hearing. Scott was specifically asked whether he was requesting a total of six weeks in the summer. He answered "Yes." That is what he received.

Turning to the remaining visitation requests, the record reveals that Rachel cooperated extensively with Scott on the timing of visitations, transportation duties, and transportation costs. Given this history, we agree with the district court that the parents can "muster up cooperation" to informally resolve the issues Scott now raises. We conclude the district court's modified visitation schedule is equitable and need not be adjusted to accommodate these additional requests. See *In re Marriage of Salmon*, 519 N.W.2d 94, 95 (Iowa Ct. App. 1994) (stating visitation will be modified only where there is a failure to do equity).

B. Tax Exemption. The district court modified the dissolution decree to award Rachel the dependent exemption in alternating years. On appeal, Scott argues the exemption should have remained with him in all years because his child support obligation increased.

Iowa Court Rule 9.6 sets forth a guideline method for computing taxes. The rule provides that "[t]he custodial parent shall be assigned one additional dependent exemption for each mutual child of the parents, unless a parent provides information that the noncustodial parent has been allocated the dependent exemption for such child." See also *In re Marriage of Okland*, 699

N.W.2d 260, 269 (Iowa 2005) (“[C]ourts have the authority to award tax exemptions to the noncustodial parent to achieve an equitable resolution of the economic issues presented.”).

At the time of the modification hearing, Rachel earned \$43,000 per year, which was significantly more than she made at the time of the divorce. She testified she was taking on medical expenses, had “huge daycare bills,” and paid for “most of [the child’s] meals and clothing and everything.” She also agreed to assume half the expense of transporting Jacob to and from visitation. On our de novo review, we conclude the district court’s allocation of the exemption to her in alternating years “achieve[d] an equitable resolution” of this issue. *Okland*, 699 N.W.2d at 269.

C. Uncovered Medical Expenses. Iowa Court Rule 9.12 requires the custodial parent to “pay the first \$250 per year per child of uncovered medical expenses” Any uncovered medical expenses in excess of these amounts are paid by the parents in proportion to their respective net incomes. Iowa Ct. R. 9.12.

The district court determined that Scott would be responsible for forty-two percent of these uncovered medical expenses and Rachel would be responsible for the remaining fifty-eight percent. Scott contends the court should have required him to pay thirty-seven percent rather than forty-two percent of the uncovered medical expenses beyond \$250. In support of this assertion, he cites the parties’ undisputed income figures, but does not explain what part of the district court’s guidelines calculation was incorrect or what different figures he

would have used to arrive at the percentage he now espouses. Accordingly, we conclude he waived error. Iowa R. App. P. 6.14(g).

D. *Medical Bills.* Scott requests that “Rachel provide copies of all medical bills with proof of what Scott owes to the provider within 30 days of receipt.” Rachel notes that the issue was not raised at the modification hearing but she has “no objection to providing Scott the information within the time frame he requests.” We conclude Rachel’s representation suffices to resolve this issue.

AFFIRMED.