

**IN THE COURT OF APPEALS OF IOWA**

No. 9-1020 / 09-0911  
Filed February 10, 2010

**DAVID ALLEN SQUIRES,**  
Plaintiff-Appellant,

**vs.**

**ANGIE VON ASWEGE**  
**f/k/a ANGIE CANTRELL,**  
Defendant-Appellee.

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Appeal from the Iowa District Court for Montgomery County, James S. Heckerman, Judge.

David Squires appeals from the district court's ruling on his petition for modification of child custody. **AFFIRMED.**

Katherine J. Kaminsky of Katherine J. Kaminsky, P.L.C., Glenwood, for appellant.

Mark D. Swanson of Swanson Law Firm, Red Oak, for appellee.

Considered by Sackett, C.J., and Vaitheswaran and Danilson, JJ.

**DANILSON, J.**

David Squires and Angie von Aswege are the parents of two minor children. In 2000 David was awarded custody of the children by consent decree. In October 2003, the children began living with Angie and have remained in her care since. In May 2004, the district court entered a modification order awarding Angie physical care, with David to receive “reasonable and liberal visitation as mutually agreed upon by the parties.”

In 2009 David moved to modify custody, alleging his son’s desire to live with him, and then in an amended petition, alleging domestic violence was occurring in Angie’s home. Following a hearing, the district court found circumstances did not warrant a change of custody. However, the court did modify the child support and visitation provisions of the 2004 decree. David appeals.

We review David’s appeal de novo. See Iowa R. App. P. 6.907. We acknowledge, however, the virtues inherent in listening to and observing the parties and witnesses. *In re Marriage of Zebecki*, 389 N.W.2d 396, 398 (Iowa 1986). Consequently, we give weight to the trial court’s findings of fact, especially when considering the credibility of witnesses, but are not bound by them. *Id.*

Our primary consideration in determining the appropriate child custody and visitation is the best interests of the children. *In re Marriage of Wessel*, 520 N.W.2d 308, 309 (Iowa Ct. App.1994). Once physical care of the children has been established by a final decree, it should not be disturbed unless there has been a substantial change of circumstances since the time of the decree, not contemplated by the court when the decree was entered. *In re Marriage of*

*Frederici*, 338 N.W.2d 156, 158 (Iowa 1983). The change must be more or less permanent and relates to the welfare of the children. *Id.* In addition, the parent seeking a change in custody has a heavy burden to prove by preponderance of evidence that he or she has an ability to render superior care. *In re Marriage of Mayfield*, 577 N.W.2d 872, 873 (Iowa Ct. App.1998).

Having reviewed the record, we agree with the district court's findings that there has not been a change of circumstances warranting a change of custody. We therefore affirm. See Iowa Ct. R. 21.29(a), (b), (e).

**AFFIRMED.**