

IN THE COURT OF APPEALS OF IOWA

No. 9-555 / 08-2050
Filed September 17, 2009

IN RE THE MARRIAGE OF JOSEPH B. MCCARVILLE AND JOYCE A. MCCARVILLE

Upon the Petition of

JOSEPH B. MCCARVILLE,
Petitioner-Appellant,

And Concerning

JOYCE A. MCCARVILLE,
Respondent-Appellee.

Appeal from the Iowa District Court for Humboldt County, Thomas J. Bice,
Judge.

Joseph B. McCarville appeals from an order modifying the decree
dissolving his marriage to Joyce A. McCarville. **AFFIRMED.**

William H. Habhab, Fort Dodge, for appellant.

Marcy Lundberg, Fort Dodge, for appellee.

Considered by Sackett, C.J., and Eisenhauer and Doyle, JJ.

SACKETT, C.J.

Joseph B. McCarville appeals from an order modifying the decree dissolving his marriage to Joyce A. McCarville. Joseph contends the district court erred in (1) fixing his monthly child support obligation for his three children, and (2) ordering that in addition to child support as determined by the child support guidelines, he pay eighty percent of his children's tuition to a parochial school system. We affirm on our de novo review. Iowa R. App. P. 6.4.

The children, at the time of the dissolution, all attended schools within the Saint Edmond Catholic School system in Fort Dodge, Iowa. The decree provided that Joseph would pay the children's tuition.

In July of 2008, Joseph filed a petition to modify the support provision of the decree, contending there had been a substantial change in circumstances, which included changes in the income of the parties and in the tuition expenses for the children.

Following a hearing, the district court found changed circumstances in that the income of both parents had increased, as had tuition for the children. The district court further found that both parents had misconceptions about the amount of tuition that would be owed after their marriage was dissolved. They did not anticipate the amount they would be required to pay or that the tuition would substantially increase.

Joseph challenges the district court's determination of Joyce's income by averaging her last three pay stubs. We cannot say that the average of her last

three pay stubs did not provide an accurate determination of Joyce's earnings and find no reason to disagree with the district court. We affirm on this issue.

Joseph contends it was improper for the district court to order him to pay eighty percent of the private school tuition. He argues that the district court failed to make findings justifying a deviation from the child support guidelines. He contends that there was insufficient evidence to justify requiring him to pay the tuition for the children and his total obligation for support should be limited to the amount provided for by the guidelines.

The district court considered Iowa Court Rule 9.11 concerning deviations from the child support guidelines and made written findings as to its reasons for deviating from the guidelines. It found Joseph is financially capable of paying the tuition, the children are relatively well-adjusted in their current school environment, and transfer would be "unreasonable and certainly not in the best interest of these three children."

Giving the required deference to the district court and considering that Joseph was originally ordered to pay private school tuition, that the children were attending a private school at the time of the dissolution, and that Joseph agrees at least the older two children should stay in the parochial school, we believe it is equitable to deviate from the guidelines. We affirm on this issue.

We award no attorney fees.

AFFIRMED.