

**IN THE COURT OF APPEALS OF IOWA**

No. 1-396 / 10-1683  
Filed July 27, 2011

**MICHAEL G. GRIFFIN,**  
Petitioner-Appellant,

**vs.**

**JESSICA A. PETERSON,**  
Respondent-Appellee.

---

Appeal from the Iowa District Court for Webster County, William C. Ostlund, Judge.

Michael Griffin appeals from the district court's denial of his petition to modify child custody. **AFFIRMED.**

Alyssa Kenville of Alyssa Kenville, P.C., Fort Dodge, for appellant.

Kevin A. Fors, Harcourt, for appellee.

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

**DANILSON, J.**

Michael Griffin and Jessica Peterson have a child together, a daughter born in 2005. The district court, in November 2005, approved the parties' stipulation and agreement, which established paternity, awarded Griffin and Peterson joint legal custody of the child, awarded Peterson physical care, and set child support.

On August 21, 2009, Griffin filed a petition for modification seeking joint physical custody. He alleged the parties had resumed their relationship in 2008; became engaged in March 2009; set a wedding date for August 21, 2009; resided together with the child from April 25, 2009, through August 12, 2009, when Peterson called off the wedding; and joint physical care was in the child's best interests. Following a hearing, the district court concluded Griffin had failed to establish a change of circumstances sufficient to warrant modifying the physical care provisions of the decree, but did provide for an additional two weeks of visitation in January and February 2011.

Griffin appeals.

We review de novo. Iowa R. App. P. 6.907. Courts are empowered to modify the custodial terms of a paternity decree only when there has been a substantial change in circumstances since the time of the decree, not contemplated by the court when the decree was entered, which was more or less permanent, and relates to the welfare of the child. *Melchiori v. Kooi*, 644 N.W.2d 365, 368 (Iowa Ct. App. 2002). The parent seeking the modification must also carry the heavy burden of showing an ability to offer superior care. *Id.*

We agree with the district court that Griffin has failed to meet his burden, although the evidence reflects he is both a good parent and an active parent. The temporary change of circumstances from April to August 2009 does not justify a modification of the custodial provisions of the decree. We also agree with the district court that the only permanent changes consist of Michael's enhanced parent-child relationship and the fact the parties' current residences were sufficiently close in distance to accommodate joint physical care. Such changes are neither substantial nor material warranting a modification of the child's physical care. We therefore affirm.

**AFFIRMED.**