

**IN THE COURT OF APPEALS OF IOWA**

No. 2-940 / 12-0582  
Filed January 9, 2013

**IN RE THE MARRIAGE OF JEANINE M. ESPIRIDON  
AND JACQUES ESPIRIDON**

**Upon the Petition of**

**JEANINE M. ESPIRIDON, n/k/a  
JEANINE ESPIRIDON-COX,**  
Petitioner-Appellee,

**And Concerning**

**JACQUES ESPIRIDON,**  
Respondent-Appellant.

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Appeal from the Iowa District Court for Jackson County, Nancy S. Tabor,  
Judge.

Jacques Espiridon appeals from the district court's denial of his application  
to modify the custody provisions of the parties' dissolution decree. **AFFIRMED.**

David Burbidge of Johnston, Stannard, Klesner, Burbidge & Fitzgerald,  
P.L.C., Iowa City, for appellant.

Natalia H. Blaskovich of Reynolds & Kenline, L.L.P., Dubuque, for  
appellee.

Considered by Doyle, P.J., and Mullins and Bower, JJ.

**BOWER, J.**

Jacques Espiridon appeals from the district court's denial of his application to modify the custody provisions of the parties' February 2008 dissolution decree that ordered Jeanine Espiridon-Cox to have physical care of the parties' nine-year-old twin daughters. Jacques contends he has proven the requisite change in circumstances and superior ability to care for the parties' children, justifying the relief requested. Jacques also argues the court erred in modifying his visitation and telephone contact with the children.

Upon our de novo review, we fail to find a substantial change in circumstances since entry of the decree. See *In re Marriage of Brown*, 778 N.W.2d 47, 51 (Iowa Ct. App. 2009) (requiring a substantial change in circumstances and a showing of ability to offer superior care to modify custodial terms of a dissolution decree). Specifically, we find "the parties remain totally embittered and unable to communicate in any adult fashion regarding the girls." However, there are no safety concerns present, the children are "thriving," and it is in their best interests to continue contact with both parents. Although we, as the trial court, expressly disapprove of the parties' immature and spiteful behavior, we find no grounds for modification of the decree's custodial terms and we therefore affirm the trial court's decision denying Jacques's requested relief.

In regard to the visitation issue, we agree with the trial court that the current schedule is "problematic" in light of the children's increasing activities, friendships, and the distance between the parties. Upon our review, we find that a material change of circumstances has occurred since the entry of the decree

and that the change in visitation is in the best interests of the children. See *id.* at 51-52 (requiring a “different, less demanding burden” of a material change in circumstances to modify a visitation provision in a dissolution decree). However, such modification should not come at the expense of the children spending less time with Jacques. We therefore affirm the modified visitation schedule ordered by the district court.

We further find the trial court properly exercised its discretion in failing to award Jacques attorney fees. We decline to award attorney fees to either party on appeal. Costs of appeal are assessed equally to each party.

**AFFIRMED.**