

IN THE COURT OF APPEALS OF IOWA

No. 6-752 / 06-0327
Filed November 16, 2006

**IN RE THE MARRIAGE OF LORI J. SWEETLAND
AND KENNETH P. SWEETLAND**

**Upon the Petition of
LORI J. SWEETLAND,**
Petitioner-Appellee,

**And Concerning
KENNETH P. SWEETLAND,**
Respondent-Appellant.

Appeal from the Iowa District Court for Worth County, John S. Scoles,
Judge.

Kenneth Sweetland appeals the modification of the dissolution decree.

AFFIRMED.

Jesse M. Marzen of Marzen Law Office, Charles City, for appellant.

Douglas A. Krull, Northwood, for appellee.

Considered by Huitink, P.J., and Mahan and Zimmer, JJ.

MAHAN, J.

Lori and Kenneth (Ken) Sweetland are the parents of three children: Kyle, born in 1988; Loren (“Josh”), born in 1991; and Nicholas (“Nick”), born in 1993. The parties’ marriage was dissolved by decree entered in December 1998. The issue of child custody was reserved for later hearing. In November 1999 the district court entered a supplemental decree adopting the stipulation of the parties which called for joint custody and joint physical care of the three boys.

In August 2005 Lori sought modification of the decree to award her primary physical care. Hearing was held, and the district court granted her request as to the minor children Josh and Nick.¹ Ken appeals.

Our review is de novo. *In re Marriage of Malloy*, 687 N.W.2d 110, 113 (Iowa Ct. App. 2004). We give weight to the trial court’s findings of fact, especially when considering the credibility of witnesses, but we are not bound by them. Iowa R. App. P. 6.14(6)(g).

Courts are empowered to modify the custodial terms of a dissolution decree “if it has been established that conditions since the decree have so materially and substantially changed that the children’s best interests make it expedient to make the requested change.” *In re Marriage of Grantham*, 698 N.W.2d 140, 146 (Iowa 2005). The change must be more or less permanent and relate to the welfare of the children. *Malloy*, 687 N.W.2d at 113. The parent seeking modification of physical care must show an ability to administer more effectively to the children’s needs. *Grantham*, 698 N.W.2d at 146.

¹ The parties agreed that Kyle, the oldest child, would continue under the shared care arrangement.

We agree with the district court that Lori has met her burden of proof in this case. We have carefully reviewed the record and conclude that there has been an escalation in a pattern of verbal abuse by Ken, directed at the two younger children. In addition, Ken made very little effort to stay in contact with Josh and Nick from April 2005 until the time of the hearing in January 2006. Other factors supporting the district court's decision are the preference of the children for primary physical care with Lori and the evidence indicating that their academic performance has improved since the cessation of the shared physical care arrangement.

The district court is affirmed.

AFFIRMED.