

IN THE COURT OF APPEALS OF IOWA

No. 3-517 / 12-1644
Filed June 26, 2013

JASON ELI ROSZELL,
Petitioner-Appellant,

vs.

JILLIAN ROSE RICHARDS,
Respondent-Appellee.

Appeal from the Iowa District Court for Fayette County, John J. Bauercamper, Judge.

Jason Roszell appeals from the dismissal of his petition to modify the physical care provision of the decree establishing physical care of his son with the boy's mother, Jillian Richards. **AFFIRMED.**

Gary F. McClintock of McClintock Law Office, Independence, for appellant.

Jeffrey E. Clements, West Union, for appellee.

Considered by Eisenhauer, C.J., and Potterfield and Tabor, JJ.

POTTERFIELD, J.

Jason Roszell appeals from the dismissal of his petition to modify the decree awarding physical care of his son to the boy's mother, Jillian Richards. He argues the court erred in finding he failed to carry his burden of proof to change physical care and in ordering him to pay attorney fees. We affirm.

The parties' child was born in 2006. In 2009, the district court granted Jillian sole custody of the child. Jason appealed, and in 2010 this court modified the district court's order, granted joint custody to both parents as they had agreed, and continued physical care with Jillian.

Jason filed an application for modification in August of 2011, alleging a change in circumstances based on the child showing signs of emotional stress from living with Jillian. Trial was held August 2, 2012. The district court found Jason was not credible, and that "[t]he patterns of harassment and manipulation as described . . . in the original decree, have continued." The referenced portion of the original decree included Jason's prior fabricated accounts of abuse by Jillian.

Our review is de novo; we give weight to the district court's factual findings, especially its determination of witness credibility. *In re Marriage of Hynick*, 727 N.W.2d 575, 577 (Iowa 2007). We find the district court correctly applied the burden of proof requirements for changing physical care and properly concluded modification was not justified. We also find the district court did not abuse its discretion in ordering Jason to compensate Jillian for the attorney fees she incurred in responding to his meritless petition. *See In re Marriage of Roerig*,

503 N.W.2d 620, 622 (Iowa Ct. App. 1993). We affirm without further opinion.

Iowa R. App. P. 6.1203(a), (d).

AFFIRMED.