

BOISE, FEBRUARY 8, 2024, AT 1:30 P.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 51236

McSHANE DAVID ERLEBACH,)
)
Petitioner-Appellant,)
)
v.)
)
MEGAN IRENE ERLEBACH, nka)
MEGAL IRENE KYGAR,)
)
Respondent.)
)

Appeal from the Magistrate Division of the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Matthew R. Thompson, Magistrate.

Cosho Humphrey, LLP; Katherine A. Meier, Boise, for appellant.

Bevis, Thery, Henson & Katz, LLP; Phillip M. Bevis, Boise, for respondent.

McShane David Erlebach appeals from a judgment modifying child custody. McShane and Megan Irene Erlebach, nka Megan Irene Kygar, divorced in 2017. The parties have three children born unto their marriage, two of whom are minor children. Less than a year following the divorce, Megan filed a petition seeking to modify the decree's custody and visitation schedule. Thereafter, the parties stipulated to and the magistrate court entered a judgment modifying custody and support. At the time this judgment was entered, McShane and the children resided in Ontario, Oregon, while Megan resided in Caldwell, Idaho. However, in November 2021, Megan relocated to Fruitland, Idaho, and also obtained new employment in Ontario.

A year later, Megan filed another petition to modify, alleging substantial changes in the parties' circumstances had occurred since the prior judgment. Specifically, Megan alleged substantial changes occurred relating to her living situation and employment, as well as the parties' incomes and ability to co-parent. A trial on Megan's petition was held in 2023. After hearing the testimony of witnesses and reviewing the evidence submitted at trial, the magistrate court found that there was a material change in circumstances warranting modification of the judgment. The magistrate court further found that modification of the judgment was in the children's best interests and awarded each party equal parenting time. Thereafter, McShane sought permission to pursue an expedited appeal, and the request was granted. McShane now appeals.