IN THE COURT OF APPEALS OF IOWA

No. 0-603 / 90-893

FILED
DEC 27 1990
CLERK SUPREME COURT

IN RE THE MARRIAGE OF DANNY R. BICKELHAUPT AND DARLA K. BICKELHAUPT

Upon the Petition of

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DANNY R. BICKELHAUPT,

Appellant,

And Concerning

DARLA K. BICKELHAUPT,

Appellee.

Appeal from the Iowa District Court for Story County, Paul E. Hellwege, Senior Judge.

Appellant appeals the dissolution decree, challenging the award of primary physical care to appellee. **AFFIRMED.**

Jere C. Maddux of Newbrough, Johnston, Brewer, Maddux & Nadler, Ames, for appellant.

Robert L. Huffer, Story City, for appellee.

Heard by Oxberger, C.J., and Donielson and Habhab, JJ.

PER CURIAM

Dan and Darla Bickelhaupt were married in 1982. They have two children, boys born in April 1983 and April 1986. The older boy has psychological and academic problems which are potentially severe. The dissolution decree placed the two children in joint legal custody and in Darla's primary physical care.

Dan has appealed from the dissolution decree, challenging only the award of primary physical care to Darla. He contends he is more likely than Darla to attend to the special needs of the older child. He also contends he can provide the children with the home they have known since infancy because he is the party who will continue to live on the family farmstead. Finally, he criticizes Darla's relationship with another man and her allegedly-lax supervision of the children. Darla requests attorney's fees on appeal.

Our review in this matter is de novo. Iowa R. App. P. 4. In child custody cases, the best interests of the child is the first and governing consideration. The factors the court considers in awarding custody are enumerated in Iowa Code section 598.41(3) and in In re Marriage of Weidner, 338 N.W.2d 351, 356 (Iowa 1983) and In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974). All factors bear on the "first and governing consideration," the court's determination of what will be in the long-term best interests of the child. In re

Marriage of Vrban, 359 N.W.2d 420, 424 (Iowa 1984). The critical issue in determining the best interests of the child is which parent will do better in raising the child; gender is irrelevant and neither parent should have a greater burden than the other in attempting to gain custody in a dissolution proceeding. In re Marriage of Ullerich, 367 N.W.2d 297, 299 (Iowa App. 1985).

We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses. Iowa R. App. P. 14(f)(7). We are not bound by these determinations, however. Id. Prior cases have little precedential value, and we must base our decision primarily on the particular circumstances of the parties presently before us. In re Marriage of Weidner, 338 N.W.2d 351, 356 (Iowa 1983).

The record reveals that both parties love their children and have a sincere interest in doing what is best for the two boys. In the same respect, the record also reveals parenting deficiencies on the part of both parties. While a custody situation is always difficult, after a thorough review of the record we agree with the trial judge that the best interest of the children would be served if the boys remain in the physical custody of the appellee.

To a great extent, credibility of the witnesses plays an important part in the trial court's decision. In this respect, it has been held:

> There is good reason for us to pay very close attention to the trial court's assessment of the credibility of witnesses. A trial court deciding dissolution cases "is greatly helped in making a wise decision about the parties by listening to them and watching them in person." In Re Marriage of Callahan, 214 N.W.2d 133, 136 (Iowa 1974). In contrast, appellate courts must rely on the printed record in evaluating the evidence. We are denied the impression created by the demeanor of each and every witness as the testimony is presented. See Lehmkuhl v. Lehmkuhl, 259 Iowa 686, 692, 145 N.W.2d 456, 460 (1966).

In re Marriage of Vrban, 359 N.W.2d 420, 423 (Iowa 1984).

We affirm the trial court in all respects. Costs on appeal are assessed against the appellant. Appellee is awarded $500 to be applied to her appellate attorney fees.

AFFIRMED.