

IN THE COURT OF APPEALS OF IOWA

No. 9-614 / 89-492

FILED

FEB 22 1990

CLERK SUPREME COURT

IN RE THE MARRIAGE OF DEBRA M. CERVETTI and RONALD G.
CERVETTI

Upon the Petition of
DEBRA M. CERVETTI,

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Appellee,

And Concerning
RONALD G. CERVETTI,

Appellant.

Appeal from the Iowa District Court for Black Hawk
County, John Bauercamper, Judge.

Ronald Cervetti appeals from a district court decree of
dissolution awarding the primary care of the parties' three
daughters to Debra. **AFFIRMED.**

Jay A. Nardini and Michael W. Buckner of Ball, Kirk,
Holm & Nardini, P.C., Waterloo, for appellant.

John R. Walker, Jr. of Beecher, Rathert, Field, Fister,
Walker & Morris, Waterloo, for appellee.

Heard by Oxberger, C.J., and Schlegel and Hayden, JJ.

HAYDEN, J.

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Ronald Cervetti and Debra Cervetti were married on February 14, 1981. They had three children: Chelsi, born in 1982; Calais born in 1983; and Caylin born in 1986. Debra had a brief prior marriage.

Debra, born in 1954, has a degree in agricultural engineering. She has worked during most of the marriage, most recently with John Deere. Currently, she is unemployed. Ronald, born in 1952, is a podiatrist in the Waterloo area. He has a substantial income. Debra is a native of Georgia. Ronald is from Iowa.

On February 16, 1988, Debra filed a petition for dissolution of marriage. During the proceedings an attorney was appointed to represent the minor children. The major dispute at trial concerned the primary custody and care of the children. The court found both parents worthy but decided to award joint custody with the primary physical care to Debra. Ronald has filed this appeal.

Ron argues the trial court erred in granting Debra physical care of the children because their long-range best interests would be served by placing them with their father. He asserts his flexible schedule permits him more time for the children and he will be able to provide more stability than his former wife. Ron accuses Debra of being emotionally unstable and a user of marijuana and alcohol. He further maintains he is more likely to foster a

meaningful relationship between the children and the other parent. Debra alleges Ron is uninvolved with the children, manipulative of Debra emotionally, uncaring, and lacking in judgment concerning his friends.

After a de novo review we affirm the trial court. Iowa R. App. P. 4. We give weight to the trial court's findings, especially where the credibility of witnesses is involved, although we are not bound by them. Iowa R. App. P. 14(f)(7); In Re Marriage of Athy, 428 N.W.2d 310, 311 (Iowa App. 1988).

The factors considered in awarding custody are enumerated in Iowa Code section 598.41(3) and In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974). We need not repeat them here. When considering custody of the children, we look to who is the better parent.

The trial court found both parents were quite capable of adequately parenting the children. As a result, it had difficulty determining which parent should be awarded primary physical care. The court could not conclude one parent was superior to the other. Primary physical care was placed with Debra because she has been more involved with the children in the past than Ron. We see no reason to disturb the custody award made by the trial court.

Although each parent made allegations impugning the other's character, mental health, and general fitness to parent, the trial court concluded this was the result of the stress of the dissolution and would pass with time.

We agree. The attorney appointed to represent the children concluded either parent would be excellent for physical placement. If the hostility could be put aside, the attorney felt the court could go either way without serious objection on his part.

We affirm the judgment and decree of the trial court in all other respects. Ron shall pay \$1,000 toward Debra's appellate attorney fees. Costs of appeal are assessed against Ron.

AFFIRMED.