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7-95
86-1382

Respondent-Appellee.)

Considered by Oxberger, C.J., and Donielson and Hayden, JJ.

OXBERGER, C.J.

In this appeal, we are presented with only one issue: whether the trial court erred in naming respondent Kenneth Van Beek physical custodian of the parties' two minor children, Shannon, age five and Kelly, age three. The children's mother, Carol Van Beek, appeals from the trial court's decree arguing that she should have been granted physical custody. We affirm.

The principles governing our review in cases of this nature are well established. Our pivotal consideration in resolving questions of child custody is the best interest of the child or children involved. Iowa R. App. P. 14(f)(15); In re Marriage of Ullerich, 367 N.W.2d 297, 299 (Iowa App. 1985). The factors upon which this determination is predicated are set forth in section 598.41(3) of the Iowa Code and in In re Marriage of Winter, 223 N.W.2d 165, 167 (Iowa 1974). In deciding this question, we review the record de novo. Iowa R. App. P. 4. Accordingly, we are not bound by the findings of fact made by the trial court, but we do give them weight, particularly where the credibility of witnesses is implicated. Iowa R. App. P. 14(f)(7). It is our ultimate responsibility to examine each case on its peculiar facts and to ascertain therefrom which parent is most capable of effectively administering to the long-range best interests of the children. In re Marriage of Welbes, 327 N.W.2d 756, 758 (Iowa 1982).

After examining the record in light of the aforesaid principles, we conclude that the trial court properly named Kenneth physical custodian of Shannon and Kelly. Initially, we note our concurrence with the trial court's finding that both Kenneth and Carol possess the requisite skills to provide proper parental guidance. The court found, however, that Kenneth was more capable of providing the children a suitable and stable environment. In reaching this conclusion, the court stated:

The Court concludes that Ken will be better able to serve the long range best interests of the children by providing a stable and calm environment. Kenneth's future is more of a predictable thing than Carol's. With him the children will be more able to have the emotional support of his family and Carol's family and contact with grandparents and with cousins of similar age. Carol's future is less predictable. She expects to enter into a new marriage soon. With her the children would most likely be cut off from the love and support of her family and Kenneth's family. Uncontroverted testimony of Carol's sisters, that when things don't go her way, she reacts extremely and that she is changeable and domineering, has played an important part in the Court's decision.

In attacking the trial court's decision, Carol first argues that the court impermissibly stressed the fact that she was involved with another man. We disagree. Contrary to Carol's assertions, we do not think that the trial court "punished" her for this activity. Rather, the court considered this fact in evaluating the respective home environments that Kenneth and Carol could provide for Shannon and Kelly. The record discloses that during the pendency of the petition for dissolution, Kenneth and Carol shared the custody of the children, with Carol having Shannon and Kelly Sunday evenings through Thursday evenings and Kenneth having custody the remainder of the week. Often, when the girls were in Carol's custody, Carol would take them with her to her fiance's home, where she would spend the night. In In re Marriage of Dawson, 214 N.W.2d 131, 132 (Iowa 1974), the supreme court explicitly noted that such activity is a relevant consideration in determining a parent's ability to provide a fit and wholesome environment. Accordingly, we conclude that the trial court properly considered this fact in the present case. See Dawson, 214 N.W.2d at 132; see also Iowa Code § 598.41(3)(a)(1985).

Carol further argues that because she was primarily responsible for the day-to-day care of the children during the parties' marriage, her parental attributes are superior to Kenneth's. We cannot agree. While we acknowledge that the respective parental contributions made by each party during their

marriage is a relevant consideration in deciding which parent should be granted physical care, this factor is not alone determinative. See Winter, 223 N.W.2d at 166-67. Moreover, the record reflects that Kenneth also participated in caring for Shannon and Kelly when he was not at work. Similarly, the evidence in the record establishes that when Kenneth had temporary custody of the children, he was a capable parent. In support of her contention that her capabilities exceed Kenneth's, however, Carol stresses the report of Kenneth D. Hasseler, a psychiatric social worker who was in charge of Kenneth and Carol's custody mediation counseling. Mr. Hasseler recommended that Carol be granted physical care because she had been the children's primary caretaker during the marriage. We think it significant, however, that Mr. Hasseler further stated that if Kenneth participated in parenting instruction classes, his parenting skills would be equally acceptable; the record discloses that Kenneth completed an eight-week course on parenting instruction held at Northwest Iowa Technical College Vocational School. In these circumstances, we cannot say that the record fails to support the trial court's finding that Kenneth is capable of providing appropriate parental care and guidance.

Finally, Carol argues that the trial court overemphasized the testimony of her sisters, Rachel Folkens and Sheila Hoogeveen. Both Rachel and Sheila testified that Carol is extremely restless and tends to become easily dissatisfied when things proceed contrary to her wishes or expectations. Both of Carol's sisters further testified that they felt Kenneth was a more suitable parent because of his calm and stable nature. Upon our de novo review of the record, we are satisfied that the trial court did not place an undue amount of weight upon Rachel and Sheila's testimony, but considered it among the evidence presented in the case. We find no error in this respect. The testimony of Carol's sisters bore relevance to the examination of each parent's personal

characteristics, which is a factor properly considered in custody determinations. Winter, 223 N.W.2d at 166.

In conclusion, we think that the trial court carefully considered all of the evidence presented by the parties. Furthermore, our review of the evidence persuades us that the court properly concluded that the children's long-range interests would best be served if Kenneth were named physical custodian. The record contains credible evidence indicating that Kenneth possesses the requisite parental skills necessary to provide the children with a suitable and stable environment. Moreover, the fact that Carol expresses her hostility toward Kenneth in front of the children causes us to conclude that Kenneth is more capable than Carol of fostering a good relationship between the children and their noncustodial parent. See Iowa Code § 598.41(3)(e)(1985). We find no error in the trial court's decision, and affirm.

AFFIRMED.