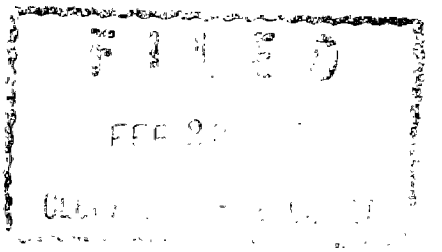
IN THE COURT OF APPEALS OF IOWA

No. 5-063 / 94-1341



IN RE THE MARRIAGE OF KENT L. JONES AND KLARICE A. JONES

Upon the Petition of
KENT L. JONES,

Petitioner-Appellee,

And Concerning
KLARICE A. JONES,

Respondent-Appellant.

Appeal from the Iowa District Court for Boone County, Dale E. Ruigh, Judge.

Klarice appeals from the child custody provisions of the parties' dissolution decree. **AFFIRMED.**

Jeanne K. Johnson, Des Moines, for appellant.

John D. Jordan and Michael F. Mahoney of Jordan, Mahoney & Jordan, P.C., Boone, for appellee.

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

SACKETT, J.

In this appeal from the custody award in a dissolution action, the focal question is whether the trial court was correct in awarding the primary care of Christopher Jones, born September 14, 1980, to his father, petitioner-appellee Kent L. Jones. Respondent-appellant Klarice A. Jones contends the trial court made the wrong decision and placed too much weight on Christopher's desire to live with his father. Klarice contends, even if the custody award is affirmed, the matter should be remanded to the trial court with an order that the trial court appoint a family mediator to resolve problems that exist and have made it difficult for her to have substantial contact with Christopher. We affirm.

Our review is de novo. In re Marriage of Vrban, 359 N.W.2d 420, 423 (Iowa 1984); see Iowa R. App. P. 4. The critical issue is which parent will do the better job of raising the child. See In re Marriage of Ullerich, 367 N.W.2d 297, 299 (Iowa App. 1985). The parent who has the ability to do the better job of raising the child or children during their minority is the parent who should be granted custody. See Vrban, 359 N.W.2d at 424.

We give weight in making these decisions to the fact findings of the trial court, especially when considering credibility of witnesses. Iowa R. App. P. 14(f)(7).

The trial court found Christopher would be well served in the physical care of either parent. Our review of the

record causes us to agree. The parties obviously both love Christopher and both have shown an interest in him. They both have the ability to assume custodial responsibility for Christopher and are interested in the welfare of their child. Christopher is a well-adjusted teenager. He currently enjoys a very strong bond with his father and his paternal grandparents who, since his parents' separation, have exclusively been responsible for his care.

The problem that exists is, during Kent and Klarice's separation prior to the dissolution, Christopher and his mother became alienated. Our review of the record convinces us both Kent and Klarice have had some responsibility for this alienation. Additionally, while Kent has had Christopher in his care, he has done nothing to foster the relationship between Christopher and his mother.

Klarice, on appeal, contends Kent's inability to help Christopher foster a meaningful relationship with her should tip the scales in her favor on the custody issue.

In determining custody, it is important to place the children with a parent who has shown an ability to cooperate with the other, and who does not try to interfere with the other parent's relationship with the children. In re Marriage of Downing, 432 N.W.2d 692, 694 (Iowa App. 1988). An award of custody should take into consideration which parent is better able to put their personal feelings aside to permit the parties' children to develop a

relationship with the other parent. In re Marriage of Bolin, 336 N.W.2d 441, 447 (Iowa 1983). The court has a duty to place children where a satisfactory relationship between them and both parents will most likely be accomplished. Downing, 432 N.W.2d at 694. Courts must act to prevent wounds from being inflicted on children and should not wait until injury occurs. In re Marriage of McCreary, 276 N.W.2d 399, 402 (Iowa 1979)(citing Zaerr v. Zaerr, 222 N.W.2d 476, 478 (Iowa 1974)).

The fact a parent does not foster a willingness to allow a child access to his or her other parent is a factor that weighs against him or her in a custody determination. See In re Marriage of Fortelka, 425 N.W.2d 671, 672 (Iowa App. 1988). Kent's refusal to foster a relationship between Christopher and his mother is a substantial factor weighing against his being named the custodial parent.

However; the most important factor is where Christopher's interests will be best served. Christopher, found by the trial court to be a mature individual, was strong in his wishes to live with his father. Klarice recognizes counseling would be necessary before she and Christopher were able to reestablish their relationship. We give consideration to the observations of the trial court and affirm the custody award.

AFFIRMED.