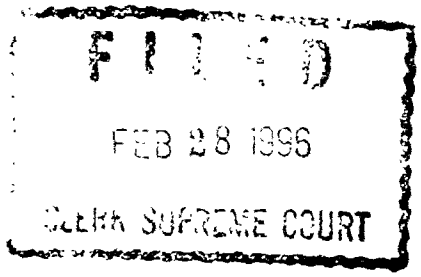
IN THE COURT OF APPEALS OF IOWA

No. 5-687 / 95-829



IN RE THE MARRIAGE OF KIM L. HODNE AND PAULETTE I. HODNE

Upon the Petition of
KIM L. HODNE,
Appellee,

And Concerning
PAULETTE I. HODNE,
Appellant.

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

Paulette Hodne appeals from the decree dissolving her marriage to Kim Hodne.

AFFIRMED.

Kermit L. Dunahoo of Dunahoo Law Firm, Des Moines, for appellant.

Dallas Janssen, Des Moines, for appellee.

Considered by Hayden, P.J., and Cady and Huitink, JJ.

CADY, J.

This appeal requires us to decide the difficult question of which parent should be designated the primary caretaker of their children following the dissolution of their marriage. On our de novo review, we affirm the decision of the trial court.

Kim and Paulette Hodne were married on May 11, 1985. They had four children: Gabriel, born July 8, 1985; Nathaniel, born June 22, 1988; Adrian, born July 7, 1987; and Deja, born October 16, 1988.

Kim and Paulette separated in February 1994 when Kim moved from the family home in Dayton. They entered into a written agreement at that time acknowledging the children's need to maintain a stable environment and designating Kim to be the primary caretaker of the children.

A short time after the separation, Paulette moved to Des Moines and secured full-time employment as the manager of a beauty supply store. She shares a small two-bedroom apartment with a male friend. Their relationship is not romantic. Paulette dates another man, who lives in Des Moines and works in the construction industry.

Kim quit his job with a telemarketing firm following the separation and moved to Paton to operate a restaurant he purchased with his girlfriend, Lori Anderson. Kim and Lori live together in a house in Paton and plan to marry. Lori has three children from a prior marriage. The Hodne children and Anderson children are of similar ages and get along fairly well.

Following the hearing in December 1994, the trial court designated Kim to be the primary caretaker. The court described the decision as "quite difficult" and recognized both parents had exhibited conflicting strengths and weaknesses in caring for their children. The primary factors recognized by the court in awarding physical care to Kim was his demonstrated ability to care for the children since the separation and his greater ability to provide stability for the children. The court also viewed the separation agreement as an indication of Paulette's confidence in Kim's abilities as a caretaker. A decree resolving all issues of the dissolution was entered following the hearing.

Paulette appeals. Her sole claim is the trial court erred in placing physical care of the children with Kim. She believes the evidence supports her claim for physical care, including superior interests and understanding of the educational and health needs of the children. She also points to evidence concerning the poor hygiene of the children while in Kim's care. Paulette further believes the trial court improperly focused on the separation agreement in designating Kim and a primary caretaker.

Our review is de novo. Iowa R. App. P. 4. We are not bound by the findings of the trial court, but we give them weight, especially when considering the credibility of witnesses. Iowa R. App. P. 14(f)(7). We recognize the superior opportunity of the trial court to view, firsthand, the demeanor of the parties and evaluate them as custodians. *In re Marriage of Krone*, 530 N.W.2d 468, 471 (Iowa App. 1995).

Our first and primary consideration in determining child custody is the best interest of the child. Iowa R. App. P. 14(f)(15). The critical question is which parent will do a better job in raising the child. *In re Marriage of Love*, 511 N.W.2d 648, 649 (Iowa App. 1993).

The trial court alertly observed the various strengths and weaknesses of the parties and appropriately characterized the custody decision as "difficult." Paulette has emphasized Kim's weaknesses on appeal while highlighting her strengths. We share Paulette's concerns over Kim's weaknesses as a parent, notably his narrow approach to dealing with the special educational needs of Gabriel and Adrian and his failure to instill proper bathing and grooming habits in the children. Personal hygiene is an integral part of a child's upbringing and can dramatically impact child development in many ways, including self-esteem.

Nevertheless, Paulette is not without her weaknesses, and Kim is not without favorable parenting characteristics. Kim has generally provided competent care for the children, and offers greater stability than Paulette.

We place modest emphasis on the separation agreement, and recognize Paulette's claim she only wanted to maintain stability for the children during the difficult months of the initial separation. At the same time, Paulette's decision to leave the children with Kim has other implications which properly impact the determination of custody.

In close custody cases, our tendency is to place weight on the important perspective of the trial court. *See In re Marriage of Brainard*, 523 N.W.2d 611, 614 (Iowa App. 1994). Considering all the evidence, together with the findings of the trial court, we conclude the best interests of the children would be served by designating Kim as a primary custodian.

AFFIRMED.