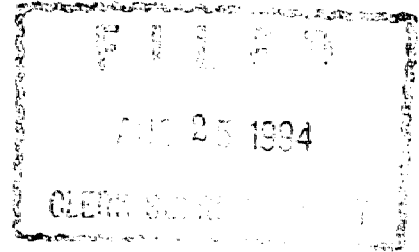


IN THE COURT OF APPEALS OF IOWA

No. 4-319 / 94-0003



IN RE THE MARRIAGE OF ROGER LOUIS PARMETER, JR. AND
ANGEL MARIE PARMETER

Upon the Petition of
ROGER LOUIS PARMETER, JR.,

Petitioner-Appellant,

And Concerning
ANGEL MARIE PARMETER,

Respondent-Appellee.

Appeal from the Iowa District Court for Woodbury
County, Robert C. Clem, Judge.

Roger appeals from the dissolution decree. He
challenges the custody provisions and the division of
property. **AFFIRMED.**

Kendra M. Zirbel Olson, Sioux City, for appellant.

Marchelle M. Roberts of O'Brien, Galvin, Moeller &
Neary, Sioux City, for appellee.

Considered by Donielson, C.J., and Sackett and Huitink,
JJ.

SACKETT, J.

Petitioner-appellant Roger Louis Parmeter, Jr. appeals from a decree dissolving his short-term marriage. Roger contends he should have been named physical custodian of the parties' child and the property division was not equitable. We affirm.

Roger and Angel started cohabitating in late 1989 and 1990. Angel's two children from a previous relationship, Charles, now four, and Benjamin, now five, were living in the home. KateLynn was born to Roger and Angel on March 31, 1991, and they were married on June 27, 1992. They separated in January of 1993. In July 1993, a temporary order was entered granting Angel physical care. The dissolution decree was entered on November 29, 1993.

Roger contends he should have physical care of KateLynn. He contends during the marriage he was the primary caretaker of KateLynn and her brothers. Roger advances there is considerable evidence Angel is a poor parent. Roger also contends the trial court gave too much consideration to the fact, if KateLynn were placed in his care, she would be separated from her half brothers.

The question is whether, in weighing all factors on a de novo review, we agree with the trial court's decision to place physical care of KateLynn with Angel. See In re Marriage of Muell, 408 N.W.2d 774, 776 (Iowa App. 1987). The question is which parent can more effectively care for the children. See In re Marriage of Estlund, 344

N.W.2d 276, 280 (Iowa App. 1983); In re Marriage of Sparks, 323 N.W.2d 264, 266 (Iowa App. 1982).

There is considerable evidence Angel was a less than satisfactory parent. There was testimony Angel would stay up until five or six a.m. and sleep until noon leaving the children unattended during this time. There was testimony Angel had been a runaway and, after her separation from Roger, she cohabitated with a man who was abusive to her.

A neighbor of Angel's, Judy Ann Reinert, testified that, at about the time the temporary order was issued, the home where Angel lived had loud music playing until four in the morning. She said a number of people came and went from the house. She further related a man named Preston lived with Angel and on one occasion beat up Angel from about two a.m. until about five a.m. and, because it was warm and windows were open, she heard Angel's cries. Reinert said KateLynn was in the house a lot and the boys were in the yard and in the street. She said the children came to her house but she had to watch them because she had a pool in the back yard.

Angel has never had regular employment but does make wedding flowers and cakes and sells cosmetics.

Angel was found to have abused the children by locking them in a room. She was assigned help by both Lunheran Social Service and the Florence Crittenton Center. The Lutheran Social Service social worker found Angel to be a good mother. She stated Angel was improving her parenting

skills and had a positive approach with the children. The worker from the Florence Crittenton Center also gave Angel good marks.

Roger has been gainfully employed in the electronics and computer industry for some time. There was testimony he assumed substantial care responsibilities for all three children when he and Angel resided in the same house.

Roger argues the evidence he presented that Angel did not watch the children, had a number of people in and out of her house, and was in an abusive relationship, coupled with evidence he was a good father to all three children when he and Angel lived together, support the award of physical care to him. We would agree with Roger the children should not be left in Angel's physical care if the facts he advances about their care are correct.

However; the testimony of Roger's witnesses is contradicted by the testimony of the workers from Lutheran Social Service and Florence Crittenton Center.

The trial court found Angel's witnesses more credible in testifying to the care Angel gave the child and also found Angel has improved her care of the children.

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. We find no valid reason not to accept the credibility assessments of the trial court and, in doing so, find Angel has shown herself to be the better parent.

We note, too, placing KateLynn's custody with Angel will allow her to live with her half brothers. See In re Marriage of Orte, 389 N.W.2d 373, 374 (Iowa 1986); In re Marriage of Holcomb, 471 N.W.2d 76, 80 (Iowa App. 1991). However, we looked to this factor only after agreeing with the trial court's credibility assessment in finding Angel would make a good custodial parent. We do not agree with Roger that the trial court put too much emphasis on this factor.

Roger next complains the property division is not equitable because the trial court awarded a VCR, washer, dryer and furniture that Roger had before the marriage to Angel. We have considered the property division as a whole. See In re Marriage of Dahl, 418 N.W.2d 358, 359 (Iowa App. 1987); In re Marriage of Griffin, 356 N.W.2d 606, 608 (Iowa App. 1984). We affirm the property division.

Angel requests attorney fees on appeal. We order Roger pay \$300 toward her attorney fees.

AFFIRMED.