

IN THE COURT OF APPEALS OF IOWA

No. 5-400 / 94-1675

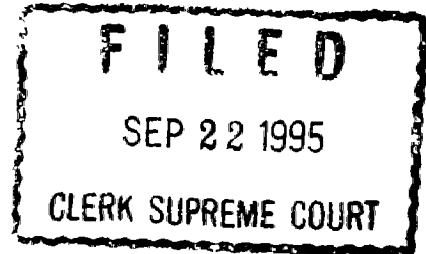
LAWRENCE J. BECK,

Petitioner-Appellee,

vs.

SANDRA HALL,

Respondent-Appellant.



Appeal from the Iowa District Court for Woodbury County, Phillip S. Dandos,
Judge.

Sandra Hall appeals from a district court order determining Lawrence Beck is the father of her daughter, establishing visitation, and requiring Beck to pay child support and other expenses. **AFFIRMED.**

R. Scott Rhinehart of Richard Rhinehart & Associates, Sioux City, for appellant.

Dennis R. Ringgenberg of Crary, Huff, Inkster, Hecht & Sheehan, P.C., Sioux City, for appellee.

Considered by Hayden, P.J., and Sackett and Habhab, JJ.

HABHAB, J.

Lawrence Beck was thirty-seven years old at the time of trial and had previously been married to Mary Beck. The Becks have two children who were nineteen years old and sixteen years old at the time of trial.

Sandra Hall is widowed and has two children by the prior marriage. Her children were sixteen years old and fourteen years old at the time of trial.

Beck and Sandra met in the spring of 1992 and began to see each other socially in the summer of 1992. As the parties continued their relationship, Sandra became pregnant, and Haley Nicole Hall was born on August 11, 1993.

Beck filed a petition to establish paternity, visitation, and child support for Haley Nicole Hall, the daughter of Sandra Hall, on September 8, 1993. Sandra filed an answer acknowledging paternity, seeking restricted visitation, and requesting medical expenses.

Following trial, the district court entered an order finding Beck was Haley's father. The district court noted Beck has had a drinking problem but determined he is fit to exercise visitation. The court then imposed a visitation schedule which gradually implemented unsupervised visitation. The court further provided Beck could not drink when exercising visitation. The court then ordered Beck to pay \$413.22 in child support, provide health insurance for Haley, and reimburse Sandra for medical expenses.

Sandra appeals.

On appeal, Sandra contends the district court should have allowed only supervised visitation. As the case was tried in equity, our review shall be de novo. Iowa R. App. P. 4. We have a duty to examine the entire record and adjudicate anew rights on the issues properly presented. *In re Marriage of Steenhoek*, 305 N.W.2d 448, 452 (Iowa 1981). We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses, but are not bound by them. Iowa R. App. P. 14(f)(7).

I. Visitation. The sole issue on appeal is whether or not Beck's visitations should be supervised. The district court found supervision was only necessary during the first month following the district court's ruling. However, the district court acknowledged Beck has a drinking problem and all visitations were contingent upon Beck not consuming alcohol during the visitations.

In establishing visitation rights, our governing consideration is the best interest of the child. *In re Marriage of Stepp*, 485 N.W.2d 846, 849 (Iowa App. 1992). Generally, liberal visitation rights are in the child's best interest. *Id.* Visitation may not be prohibited unless such visitation would, in some way, injure the child. *In re Marriage of Toedter*, 473 N.W.2d 233, 234 (Iowa App. 1991).

The district court took proper precautions in awarding visitation. Visitation was made contingent upon Beck's not using alcohol during the visitation. We view this contingency as appropriate. Should Beck violate this contingency, grounds for a modification of visitation may arise. We find the district court took appropriate

precautions in awarding visitation, and we do not believe it is necessary to modify the district court's order.

II. Attorney Fees. On appeal, Sandra requests appellate attorney fees. An award of attorney fees is not a matter of right, but rests within the court's discretion and the parties' financial positions. *In re Marriage of Gilliam*, 525 N.W.2d 436, 439 (Iowa App. 1994). We are to consider the needs of the party making the request, the ability of the other party to pay, and whether the party making the request was obligated to defend the trial court's decision on appeal. *In re Marriage of Miller*, 524 N.W.2d 442, 445 (Iowa App. 1994). We deny Sandra's request for attorney fees on appeal.

AFFIRMED.