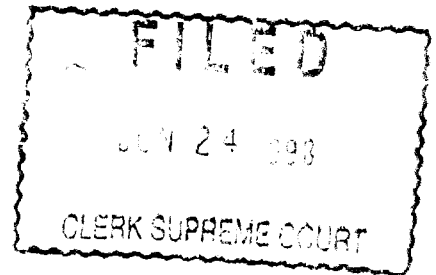


IN THE COURT OF APPEALS OF IOWA

No. 8-157 / 97-855



Upon the Petition of
GARY GOOD,

Appellant,

And Concerning
SUSAN GEERTS,

Appellee.

Appeal from the Iowa District Court for Chickasaw County, Robert E. Mahan,
Judge.

Petitioner appeals a district court ruling awarding the respondent physical care
of the parties' minor child. **AFFIRMED.**

Gary D. Good, Ionia, pro se, appellant.

Russell H. Schroeder, Jr. of Schroeder Law Office, Charles City, for appellee.

Considered by Cady, C.J., and Huitink and Vogel, JJ. Mahan, J., takes no part.

VOGEL, J.

Gary Good and Susan Geerts are the parents of Michelle, who was born on January 5, 1995. Gary and Susan were never married. Susan has been Michelle's primary caretaker throughout her life.

Gary has part-time employment as a truck driver. He has had several different places of employment in recent years. Susan is employed full-time as a bookkeeper at her parents' feed business.

On April 1, 1996, Gary filed a petition for custody of Michelle, claiming Susan was not a fit parent. Susan filed a counterclaim seeking child support.

At the custody hearing, Gary was very concerned about one incident in which Susan's older daughter, Jennifer, woke Michelle up at 4:30 a.m. Gary believed Jennifer woke Michelle just to play with her and this was very detrimental to Michelle. In addition, Gary believed Jennifer had given Michelle a sip of alcohol at a wedding reception. Gary reported his concerns to the Department of Human Services (DHS). At the custody hearing, Terri Kuntz, a DHS supervisor, testified the incidents did not constitute child abuse and did not warrant further investigation.

The district court found Susan had provided proper care for Michelle. The court specifically found Kuntz was credible. The court determined Susan should have primary physical care of the child. Gary was awarded liberal visitation and ordered to pay child support. Gary appealed.

Our scope of review is de novo. Iowa R. App. P. 4. The criteria for determining custody are the same whether the parents are dissolving their marriage or are unwed. *Langner v. Mull*, 453 N.W.2d 644, 649 (Iowa App. 1990). In child custody cases, our first and governing consideration is the best interests of the child. *In re Marriage of Buttrey*, 538 N.W.2d 322, 324 (Iowa App. 1995). The court's objective is to place the children in the environment most likely to bring the child to a healthy physical, mental, and social maturity. *In re Marriage of Rodgers*, 470 N.W.2d 43, 45 (Iowa App. 1991).

On appeal, Gary claims Susan should not have primary physical care of Michelle because of the incident where Jennifer woke Michelle at 4:30 a.m. Jennifer testified she accidentally dropped her hair dryer and the noise woke Michelle. There was no evidence Michelle has been awakened at 4:30 a.m. on any other occasions.

We note Susan has been Michelle's primary caretaker throughout her life. Susan presented the testimony of several witnesses to show she was a responsible parent who took good care of her children. The role of primary caretaker is critical in the development of children, and careful consideration is given in custody disputes to allowing children to remain with the parent who has been the primary care giver. *In re Marriage of Wilson*, 532 N.W.2d 493, 495 (Iowa App. 1995). Gary has not shown sufficient reason to place Michelle in his care. We agree with the district court's conclusion Susan should have primary physical care of Michelle.

Susan asks for attorney fees for this appeal. An award of appellate attorney fees is not a matter of right, but rests within the court's discretion. *In re Marriage of Applegate*, 567 N.W.2d 671, 675 (Iowa App. 1997). We determine Gary should be required to pay \$500 for Susan's appellate attorney fees.

We affirm the decision of the district court. Costs of this appeal are assessed to Gary.

AFFIRMED.