IN THE COURT OF APPEALS OF IOWA

No. 6-511 / 95-1175

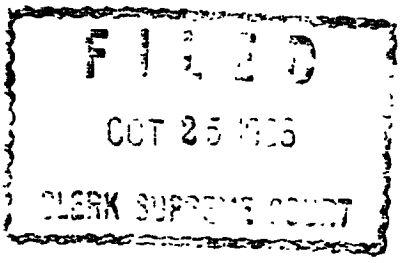
IN RE THE MARRIAGE OF LORIE LYNNE SILVERTHORN AND RANDY JAY SILVERTHORN

Upon the Petition of
LORIE LYNNE SILVERTHORN n\k\a LORIE LYNNE REINSMA,

Appellant,

And Concerning
JAY SILVERTHORN,

Appellee.



Appeal from the Iowa District Court for Story County, William J. Pattinson, Judge.

Lorie Reinsma appeals from the child visitation provisions of the parties' dissolution decree. **AFFIRMED AS MODIFIED.**

Stephan M. Terrill of Terrill & Hege Law Offices, Ames, for appellant.

Randy Jay Silverthorn, Ames, pro se, appellee.

Considered by Habhab, P.J., Huitink, and Vogel, JJ.

PER CURIAM.

This is an appeal by a mother claiming the district court should have limited the father to supervised visitation, instead of unsupervised visitation, with their child. We affirm as modified in this memorandum opinion pursuant to Iowa Supreme Court Rule 9.

Lorie and Randy Silverthorn were married in January 1991. They have one child, Jason, born on December 5, 1991. On August 29, 1994, Lorie filed a petition for dissolution of marriage and the district court entered an order ordering Randy to have no contact with Lorie. Randy was twice found to be in contempt of court for violating the no-contact order.

The district court issued a decree of dissolution for the parties on June 12, 1995. The court granted Lorie sole legal custody of Jason. Randy was granted visitation on one weekday evening per week, alternating weekends, alternating holidays, and three weeks in the summer. The court discussed in its findings that it was reasonable to require Randy to abstain from alcoholic beverages for twenty-four hours prior to commencing visitation and during visitation. Additionally, the court found it was reasonable to require Randy to refrain from operating a motor vehicle with Jason, unless Randy acquired a valid driver's license. However, these findings were not included in the court's order. The court denied Lorie's Iowa Rule of Civil Procedure 179(b) motion. Lorie has appealed.

Lorie contends the district court should have required visitation to be supervised. She states Randy has had six convictions for driving while intoxicated and three convictions for public intoxication. She is afraid Randy will drive while intoxicated with Jason in the vehicle. Lorie points to the fact Randy was found in contempt and claims he is not likely to obey the law, even during visitation.

A court should place conditions on a parent's visitation rights only when visitation without the placement of conditions is likely to result in direct physical harm or significant emotional harm to the child, other children, or a parent. *In re Marriage of Rykhoek*, 525 N.W.2d 1, 5 (Iowa App. 1994). Any conditions which are so imposed must be in the best interests of the child. *Id.*

We find supervision is an excessive condition to place on visitation under the facts of this case. We do find, however, the conditions which the district court discussed in its findings should be considered part of the court's order. We therefore modify the dissolution decree to require that Randy abstain from alcoholic beverages for twenty-four hours prior to commencing visitation and during visitation. Additionally, Randy must refrain from operating a motor vehicle, with Jason as a passenger, unless and until he has acquired a valid driver's license.

We affirm the parties' dissolution decree as here modified. Costs of this appeal are assessed one-half to each party.

AFFIRMED AS MODIFIED.