FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF ELIZABETH ANN STRIEGEL AND MARION FRANCIS STRIEGEL

Upon the Petition of	)	
ELIZABETH ANN STRIEGEL,	)	
Petitioner-Appellant,	)	Filed September 27, 1983
And Concerning	)	
MARION FRANCIS STRIEGEL,	)	3-258 83-357
Respondent-Appellee.	)	

Appeal from Mahaska District Court - Robert Bates, Judge.

Petitioner mother appeals the child custody provisions of the parties' dissolution of marriage decree. REVERSED AND REMANDED.

David D. Dixon of Heslinga & Heslinga, Oskaloosa, for petitioner-appellant.

Lake E. Crookham of Crookham Law Offices, Oskaloosa, for respondent-appellee.

Considered by Oxberger, C.J., and Donielson, Snell, Schlegel, Hayden, and Sackett, JJ.

SACKETT, J.

Appeal by Elizabeth Striegel, petitioner in a dissolution proceeding, from that portion of the decree awarding custody of minor son to respondent, Marion Striegel.

Elizabeth and Marion Striegel were married in 1968. Elizabeth is 34 and has a high school education. She has been employed for the past nine years and has performed most of the household duties in addition to her outside employment. Marion is 38, with a high school education and two years of technical training. He has been employed full time for approximately 15 years. Marion also runs a small farm operation and serves as a captain in the National Guard. Elizabeth and Marion have two minor children, Heidi Ann, born July 11, 1969, and Donald Hans, born November 23, 1971. The children have lived continuously with both parents.

Elizabeth and Marion were granted a decree of dissolution on February 4, 1983, at which time custody of Heidi was granted to Elizabeth, while Marion received custody of Hans. Liberal visitation rights were granted each party and both parents indicated an intention to remain in the Oskaloosa area. Elizabeth appeals the award of split custody and seeks custody of Hans. Marion does not challenge the award of custody of Heidi to her mother, but wishes to retain custody of Hans.

The trial court, in awarding split custody, found both parents to be fit and proper custodial parents, but concluded:

> that it is in the best interest of Heidi Ann Striegel that she remain in the permanent care and custody of the Petitioner Elizabeth Ann Striegel, and further that it is in the best interest of Donald Hans Striegel that he remain in the permanent care and custody of the Respondent Marion Frances Striegel.

Since Marion does not challenge the award of custody of Heidi to her mother, the only issue presented is whether Elizabeth should have been awarded custody of both Hans and Heidi or whether custody of the siblings should remain split.

Our review of the custody order is de novo. Iowa R. App. P. 4. In child custody cases the first and governing consideration of the court is the best interest of the child. Iowa R. App. P. 14(f)(15). The Iowa Supreme Court has consistently adhered to the principle that no court should separate siblings absent good and compelling reasons. In re Marriage of Burham, 283 N.W.2d 269, 276 (Iowa 1979); Doan Thi Hoang Anh v. Nelson, 245 N.W.2d 511, 517 (Iowa 1976); In re Marriage of Woodward, 228 N.W.2d 74, 75 (Iowa 1975); In re Marriage of Winter, 223 N.W.2d 165, 168 (Iowa 1974); Tschappat v. Kluver, 193 N.W.2d 79, 81 (Iowa 1971); Jones v. Jones, 175 N.W.2d 389, 391 (Iowa 1970); Wells v. Wells, 168 N.W.2d 54, 60 (Iowa 1969). Such good and compelling reasons were present in In re Marriage of Jones, 309 N.W.2d 457 (Iowa 1981), where one child had hostile feelings toward his mother and could not be controlled by her. More importantly, one brother had a strong influence over the other and, in the trial court's opinion, there was great danger that such influence would have a bad effect on him.

Split custody was also justified in In re Marriage of Winter, 223 N.W.2d at 168. There the siblings had already been separated for several years and had expressed a desire to remain where they were. Both the children's attorney and a psychiatrist employed by their attorney recommended that custody remain split. Since the children had already been long separated and had adjusted to their situations, the court found split custody to be the least detrimental available alternative.

In In re Marriage of Woodward, 228 N.W.2d at 76, a custody modification providing for split custody was necessitated by "advanced hostility" between mother and daughter. Because of the deterioration of the mother-daughter relationship, the father obtained custody of his daughter while the mother retained custody of her son.

A split custody arrangement was found to be the least detrimental alter-

native in In re Marriage of Wahl, 246 N.W.2d 268, 271 (Iowa 1976). While both parents were fit, the mother was unable to live in Pleasantville with the two children harmoniously. The trial court concluded that the siblings would have a better chance of "harmonious acquaintance with each other" under split custody. Furthermore, a psychological evaluation revealed that neither child was suffering from being separated.

The court in In re Marriage of Hagge, 234 N.W.2d 138, 139 (Iowa 1975), weighed the benefits to the minor daughter being with her mother as compared to the detriments arising from her separation from her brothers and approved an award of split custody, finding it to be the least detrimental alternative.

In Tschappat v. Kluver, 193 N.W.2d at 82, the district court awarded custody of the daughter to her mother and awarded custody of the son to his father. The Iowa Supreme Court on review found no reasonable and persuasive cause to separate the siblings, reversing the grant of custody of the son to his father.

In the instant case, both parents have expressed love and concern for their children, and the trial court found that either would be a proper custodial parent. Both children are healthy and appear to enjoy a normal relationship with their parents and with one another. In reviewing a split custody decision, the focus must be the best interests of the children involved. Iowa R. App. P. 14(f)(15). In attempting to foster children's best interests, the court ordinarily attempts to keep children of broken homes together. In re Marriage of Jones, 309 N.W.2d at 461. The underlying rationale is that split custody deprives children of the benefit of constant association with each other which, as innocent victims of marital bankruptcy, they should not lightly be subjected to. In re Marriage of Wahl, 246 N.W.2d at 270. This rule has been held to not be immutable, but may be departed from if there exist good and compelling reasons. In re Marriage of Burham, 283 N.W.2d at 276; In re Marriage of Woodward, 228 N.W.2d at 75-76; Jones v. Jones, 175 N.W.2d at 391.

Applying this rationale to the present situation, there appear to be no persuasive circumstances justifying or necessitating the separation of Heidi and Hans. The desire on the part of a father to retain custody of his 11-year-old son on the farm, without more, does not amount to a good and compelling reason for the separation of siblings. Such a split custody order should be made only after a careful consideration by the court of its potential impact on the children involved. There is no indication from the record that a good and persuasive cause to separate Hans and Heidi is present here. Accordingly, we reverse the custodial award of Donald Hans to his father. Petitioner mother is hereby granted permanent care and custody of Heidi Ann and Donald Hans, and to that extent the original decree of dissolution entered below is hereby modified.

The judgment below is reversed and remanded for a determination of child support obligations for Donald Hans in accordance with this opinion.

REVERSED AND REMANDED.