FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF KELLI BETH LEWIS AND JOHN ROBERT LEWIS

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Upon the Petition of	)	
KELLI BETH LEWIS,	)	
Petitioner-Appellee,	)	Filed November 20, 1984
And Concerning	)	
JOHN ROBERT LEWIS,	)	4-445 84-489
Respondent-Appellant.	)	

Appeal from the Iowa District Court for Appanoose County - James P. Rielly, Judge.

Respondent husband appeals from the decree dissolving the parties' marriage. He asserts that the trial court should have awarded him custody of the parties' child. AFFIRMED.

Marvin V. Colton of Colton Law Office, Albia, for respondent-appellant.

Thomas L. Anders, Centerville, for petitioner-appellee.

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

DONIELSON, J.

Respondent-husband appeals from the decree dissolving the parties' marriage. He asserts that the trial court should have awarded him custody of the parties' child. We affirm.

Kelli Beth Lewis and John Robert Lewis were married in 1979. They have one child, John Jr., who was born in 1980. The parties separated in 1982 shortly after John started a new job in Louisiana. Kelli subsequently returned to Iowa with her son. In 1983, Kelli brought this dissolution action; she also began dating another man, David Clark. They now have a child and plan to be married when this dissolution is final. John is still living in Louisiana and works as a manager at a convenience food store.

The trial court found that John Jr. is a well-adjusted child and that he has a close relationship with Kelli, David Clark, and Kelli's new child. The court awarded custody to Kelli. John has appealed from this determination.

The paramount consideration in determining custody is the best interests of the child. Iowa R. App. P. 14(f)(15). The factors to be considered in a custody decision include those set out in section 598.41 of the Code and in In re Marriage of Winter, 223 N.W.2d 165-67 (Iowa 1974). As in all cases of this type, precedent is of little value and our decision will ultimately depend on the particular facts of the case. In re Marriage of Castle, 312 N.W.2d 147, 148 (Iowa Ct. App. 1981).

The record reflects that John Jr. has lived with Kelli since birth and that she has been his primary caretaker. John Jr. has not seen his father since the parties separated in the fall of 1982. Since that time, Kelli has provided a stable environment for the child and has demonstrated that she is capable of looking after his needs.

John does not dispute the fact that Kelli is a good mother. However, he expresses concern about Kelli's "immoral conduct." Specifically, he refers to the fact that Kelli and David Clark currently live together and have had a child. As

both parties recognized, moral misconduct does not ipso facto preclude a parent from obtaining custody. In re Marriage of Morton, 244 N.W.2d 819, 822 (Iowa 1976). It is merely one factor to be given consideration. Without passing judgment on Kelli's conduct, we find that there is little reason for concern in the instant case. The relationship between David and Kelli began after the parties to this action had separated. They plan to be married when the dissolution is final. We do not believe Kelli's relationship with David detracts from her ability to properly care for her son. Moreover, there is no evidence in the record that the relationship is having a harmful effect on John Jr.'s emotional or moral welfare. Kelli's lifestyle should not be considered a significant factor unless it adversely affects the child. See In re Marriage of Kramer, 297 N.W.2d 359, 362 (Iowa 1980).

John also expresses concern about Kelli's alleged refusal to allow John to visit his son or speak with him on the telephone. We recognize that the best interests of the child require a continuing association with his father. Yet we do not believe the record supports the claim that Kelli has intentionally interfered with John's relationship with John Jr. As the trial court found, John has made very little effort to contact his son since the parties separated. In fact, Kelli initiated all the telephone conversations during which John asked to speak with his son. At trial, Kelli expressed a belief that John should have liberal visitation rights. We are confident that she will abide by the terms of the decree in this respect.

Finally, John claims that he should be awarded custody since he can provide his son with better living conditions and educational opportunities. He refers to the fact that Kelli plans to send John Jr. to "Headstart" for pre-school work, evidently to demonstrate that he is in a better financial position to care for his son. We are unconvinced by this argument. The financial situation of each party "while entitled to some consideration, is of little import when we remember the first consideration of courts in cases of this kind is to keep an eye to the best

interests of the children involved." Hagen v. Hagen, 226 N.W.2d 13, 16 (Iowa 1975). John Jr. has a stable home life and enjoys a close relationship with his mother and sister, Rebecca. We agree with Kelli that the child's best interests would not be served by uprooting him from that environment.

AFFIRMED.