FILED
DEC 26 1984
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

625

IN RE THE MARRIAGE OF NEVADA L. WOOD AND RONNIE E. WOOD

UPON THE PETITION OF **NEVADA L. WOOD,**	)	
Petitioner-Appellee,	)	Filed December 26, 1984
AND CONCERNING **RONNIE E. WOOD,**	)	4-451 / 84-686
Respondent-Appellant.	)	

Appeal from the Iowa District Court for Mills County, Paul H. Sulhoff, Judge.

Respondent-husband appeals from the decree dissolving the parties' marriage. He asserts that joint custody is not appropriate and that the trial court should have granted him sole custody. AFFIRMED.

Maynard S. Telpner of Telpner, Smith & Sawatzke, Council Bluffs, for respondent-appellant.

Oscar O. Over of Over, Over & Over, Council Bluffs, for petitioner-appellee.

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

OXBERGER, C.J.

The appellant in this case, respondent below, is appealing the decree dissolving his marriage with petitioner, and asserts the trial court erred when it awarded joint custody of the couple's daughter, with physical care placed with the petitioner. We affirm.

As is the case involving so many custody disputes, each parent here attempts to show the other in their worst light, and prove why they should be given custody. This appeal involves a battle over disputed facts, with the young daughter as the prize.

The couple divorced January 12, 1984, and legal custody ordered shared between both parents. The petitioner, Nevada Wood, was given physical custody of their child, Michaela, born July 9, 1982. Child support was ordered paid of $150 per month by the respondent, Ronnie Wood, to Nevada.

Our review of this case is de novo. Iowa R. App. P. 14(f)(7). We decide the facts anew on appeal, although we give weight to the trial court findings, particularly where the credibility of witnesses is involved. Id. In making a child custody determination, the best interests of the child are paramount. Id. at 14(f)(15).

Ronnie was thirty years old at the time of trial, has a twelfth grade education, and was a plumber for five years. At the time of trial, he worked at the Union Pacific Railroad in Omaha, Nebraska, as a sheet metal and pipe welder, Monday through Friday, from 8:00 a.m. to 4:00 p.m. He is living in a mobile home with his parents at Murray, Nebraska. His parents have lived there since October 1982, and he says that this arrangement is temporary until his parents find a home in Murray or his father's work requires him to move. The home has two bedrooms, and his parents use one bedroom. When Michaela visits, she shares a room with her father. Ronnie has been married before, and has one son from that marriage, Ryan, aged eleven at the time of trial. Ryan currently lives with his mother.

Nevada was also thirty years old at the time of trial and is a Licensed Practical Nurse. She and another nurse are in charge of the Glen Haven Nursing Home from 2:00 p.m. to 10:00 p.m. Nevada's mother babysits Michaela during bad weather while Nevada works, and at other times the child is taken to Woods Glen Daycare Center in Glenwood. Nevada lives in a three-bedroom home in Glenwood, Iowa, with Michaela, two sons from a previous marriage, Danny, aged fifteen, and Robert, aged nine. She shares the home with her boyfriend, who also has three children from a previous marriage. Michaela shares a bedroom with a three-year-old girl.

Ronnie has two major complaints concerning Nevada. One is that she occasionally joins other employees after work for a drink at a tavern. He claims the testimony shows he would rather stay at home and be involved in church activities, while Nevada preferred to socialize with friends. His second complaint is that while most of his social activities involve church, and he attends church regularly, Nevada does not attend church.

These two problems seem to be the major thrust of Ronnie's showing that Nevada should not have custody. He cites a number of other problems he sees as connected with Nevada's ability to parent. These include the fact that she smokes, while he only chews tobacco. Nevada is dating and Ronnie is not. He says he is more concerned about Michaela being strapped in a car seat than Nevada is.

Ronnie claims that, on the other hand, the record shows he is a good parent. In addition to being a regular church-goer, he has a good relationship with his son Ryan. Further, Ronnie cites his church attendance not only for the fact that he should have physical custody of Michaela, but also testified it was his reason to believe that joint custody would not work, even though such an arrangement had worked well during the separation:

> Well, it has worked out good in the respect that both of us are seeing her,and, you know, being able to have time with her but I think in the long arrangement, that as far as showing love and affection and teaching her like I had my boy to do different things and love of others, I think in my eyes that I would be a better parent for her as far as having a Christian home and being able to oversee her and meet her needs and wants.

The child custody investigator testified she felt joint custody was in Michaela's best interests, but that the couple had trouble communicating. She recommended against joint legal custody. She found both parties to be good parents, but recommended custody be placed with Ronnie. She appears to put considerable emphasis on Ronnie's lack of social life and extensive involvement with church. She said the children from Nevada's prior marriage are healthy, happy, and doing well in school. Nevertheless, she says Nevada has relied on her mother too much for care of the children.

Nevada counters Ronnie's statements by pointing out that while she joins friends after work at a bar, this occurs only once every two weeks while Nevada's mother is at home with the child, and that she never drinks to excess. The custody investigator confirmed this. Nevada also attends church, although she is not as involved as Ronnie is in his church.

Nevada points to the fact the children from her prior marriage and Michaela have all thrived in her care. She cites her special training in the psychological and physical needs of children as another plus in her parenting abilities.

On cross-examination, it was revealed that the investigator's statement in her letter to the court, that the grandmother had been given some of the care of Michaela, was based on statements from Ronnie, and not the result of any conversation with Nevada or her mother, or any first-hand observation. The investigator also agreed that Nevada's occasional socializing with friends at bars was not in itself harmful to Michaela, and that it did not result in any neglect of the child's needs.

Nevada raises several of her concerns about Ronnie's parenting abilities. She testified Ronnie believes in corporal punishment, and once beat Nevada's son, Robbie, with a leather belt with enough severity to leave a mark for almost two weeks. Ronnie also expressed to her his approval of his own father's acts in whipping him to the point he urinated. Nevada further raised concerns about drinking problems on the part of Ronnie's father. The investigator looked into claims the the grandfather had become abusive when drinking, but reported she found the grandfather instead became quiet and childlike when drinking. Ronnie also claims his father has cut down on his drinking. Nevada says the investigator relied too heavily on statements of the grandfather's friends and relatives in making her conclusion. She says that at times he would become so drunk he couldn't talk, and Nevada's mother testified he would become belligerent and on one occasion hit Robbie in the mouth with a screwdriver while drunk.

Our statute strongly favors joint custody. Iowa Code § 598.41 (1983), c.f. In re Marriage of Bolin, 336 N.W.2d 441, 446 (Iowa 1983). Ronnie's belief that he can provide a beter Christian home for Michaela, and the hard feelings between the couple, do not rise to the level to indicate to this court that joint custody will not work. On the contrary, the couple has managed to share visits with the child. The unpleasant feelings between them are to be expected following a divorce and hard-fought custody dispute. We agree with the court Michaela's best interests are that both her parents retain their legal rights and duties as parents.

In deciding upon physical custody, we review the factors set out at In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974). We agree with the court that both parents love their child and could provide a good home for her. Faced with this, we must chose between the two parents. We agree with the trial court that Michaela's best interests are that her physical care be placed with her mother. Nevada has performed a commendable job of raising her two sons, as shown in the testimony of several unrelated witnesses. She has shown herself through the testimony of friends, relatives, and acquaintances to be a concerned,

loving parent. She provides the child with teachings in concern for others, even though she is not as involved in her church as Ronnie is. There is some concern about Ronnie's attitude approving of whippings that go past spankings.

Because of our decision here, we do not disturb the child support award.

Ronnie shall pay $1880 of Nevada's attorney fees incurred on appeal. In re Marriage of Castle, 312 N.W.2d 147, 150 (Iowa Ct. App. 1981).

AFFIRMED.