IN THE COURT OF APPEALS OF IOWA

No. 0-055 / 99-0929
Filed March 15, 2000

IN RE THE MARRIAGE OF TIFFANI J. SPRUNG AND TRAVIS J. SPRUNG

Upon the Petition of
TIFFANI J. SPRUNG,
Petitioner-Appellee,

And Concerning
TRAVIS J. SPRUNG,
Respondent-Appellant.

FILED
MAR 15 2000
CLERK SUPREME COURT

Appeal from the Iowa District Court for Mitchell County, John S. Mackey, Judge.

Respondent appeals the custody provisions of his dissolution decree contending he should have been awarded primary physical care of his children. **AFFIRMED.**

Russell Schroeder, Jr., of the Schroeder Law Office, Charles City, for appellant.

Murray Kloberdanz of Kratchmer & Kloberdanz, Osage, for appellee.

Heard by Sackett, C.J., and Hecht and Vaitheswaran, J.J.

SACKETT, C.J.

Respondent-Appellant Travis J. Sprung appeals from the custodial provision of the decree dissolving his marriage to Petitioner-Appellee Tiffani J. Sprung. Travis contends he, not Tiffani, should have been named primary custodian of the parties' twin children, Dakota and Dustin, who were born on August 7, 1997. We disagree and affirm the district court.

Travis, twenty-four years old at the time of trial, and Tiffani, twenty-nine years old at time of trial were married on January 4, 1997. This was Tiffani's second marriage. She has two children from her prior marriage who lived with the parties.

The district court found Tiffani and Travis both adequate custodial parents. The court indicated its concern about Travis being overly strict with the children and determined this would hinder their normal development. The court went on to say Tiffani appeared more reasonable in her expectations of the children and she promoted age-related behavior.

Our review is de novo. Iowa R. App. P. 4. The critical issue is which parent will do the better job of raising the children. *See In re Marriage of Ullerich*, 367 N.W.2d 297, 299 (Iowa App.1985). The parent who has the ability to do the better job of raising the child or children during their minority is the parent who should be granted custody. *See In re Marriage of Vrban*, 359 N.W.2d 420, 424 (Iowa 1984). We give weight in making these decisions to the fact-findings of the trial court, especially when considering credibility of witnesses. Iowa R. App. P. 14(f)(7), *In re Marriage of O'Brien*, 491 N.W.2d, 204 (Iowa App. 1992).

Travis contends he is the better parent. He has a degree from North Iowa Area Community College. He works for his aunt and uncle on their farm and is paid about $28,000 a year. He also farms 350 acres of rented ground. He lives in a large home he is purchasing from his parents. He is active in his church and sings in its choir. His parish priest testified that he is a good and sharing church member. The priest further said he observed Travis to be a good and concerned father. He said based on his observations Travis has a strong bond with his sons. The priest further stated when the children attended church with Travis he is attentive to their needs. Other witnesses basically agreed with these conclusions including Travis's aunt who said she trusted him with her two sons, ages eleven and seven, and he has a good relationship with them.

Travis was ordered to pay Tiffani temporary support and at the time of trial he was current with that support. He appears to understand the value of money and spends it wisely. All evidence indicates he is a very hard worker. During the parties' sixteen-month separation before trial they shared custodial care of the children according to an agreement that gave them nearly equal time with the children. The agreement also provided for mid-week visitation for the parent not then having custodial care. Travis exercised all these mid-week visitations. Tiffani did not. Travis's girlfriend was living with him at the time of trial and assisted him with the care of the children when they were in his custody.

Tiffani works at a bar in Riceville. She lives in a trailer house with her four children who she contends are close and bonded to each other. Her former husband testified her residence is clean and neat and that his children interact

well with Dakota and Dustin. He further testified Tiffani is a good mother. Several other witnesses generally agreed with this testimony.

Tiffani admitted she is not a good money manager. She took $5,000 when the parties separated and spent it within a month. She has filed for bankruptcy. She has smoked cigarettes since her teens and smokes a package a day, but she says she does not smoke in the children's presence.

In the sixteen months after she and Travis separated Tiffani lived in three places. She has substantial responsibilities working and caring for four young children.

Travis notes that Tiffani's witnesses are generally complimentary of his parenting ability. He also notes that the evidence is he was kind to Tiffani's older children during the time they were married. He argues and she agrees that after the parties' separation he wanted to take her children with him on some visits and she did not allow it. He is concerned about Tiffani's smoking cigarettes around the children. He doubts that she does not smoke in their presence. He argues the children's clothes smell like a perfume spray when they come to his home.

Tiffani contends Travis has a temper. He admits that he does. She complains about Travis requiring her two older children to wash a basement wall after they drew on it. She contends that her four children are bonded and this is a factor in her favor.

In *In re Marriage of Orte*, 389 N.W. 2d 373, 374 (Iowa 1986), the Iowa Supreme Court expressed a strong interest in keeping children of broken homes together and said, "In order for a court to depart from this general rule, it must

appear that separation may better promote the long-range interests of children." *Id.* They then went on to say, "We believe these general principles should govern awards of physical care in cases of half siblings as well as others." *Id.*

Travis from our review of the record is a dedicated and hard working young man. Tifffani is an organized and good mother. We have concerns about Tiffani's ability as a single mother to meet the needs of four young children and work full time. We note her older son is hyperactive and takes Ritalin.

The children are bonded to each other. The district court has viewed the parties and heard their testimony. Giving the trial court its required deference and recognizing the presumption for keeping children together, we affirm the district court.

AFFIRMED.