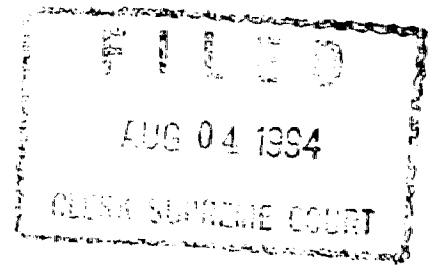


IN THE COURT OF APPEALS OF IOWA

No. 4-229 / 93-1588



SARA L. KEPPLER,

Appellant,

vs.

ROGER A. TAAKE,

Appellee.

Appeal from the Iowa District Court for Clayton County,
K.D. Briner, Judge.

Keppler appeals from an order placing the parties' child in Taake's custody. **AFFIRMED.**

Charles R. Kelly of Charles Kelly Law Office, P.C., Postville, and Terry D. Parsons, Cedar Falls, for appellant.

Michael J. Schuster of Schuster and Mick, Guttenberg, and David J. Grace of Dickinson, Mackaman, Tyler & Hagen, P.C., Des Moines, for appellee.

Considered by Hayden, P.J., and Habhab and Cady, JJ.

CADY, J.

Stephanie Taake is the daughter of Sara Keppler and Roger Taake. She was born on June 13, 1991. Sara and Roger lived together for two months following Stephanie's birth, at which time Sara moved away and began attending college. Sara and Roger again resided together from May to November 1992. They never married.

Sara moved out and continued a relationship she had developed with another man. Roger moved into his parent's home and continues to help with the family farming operation. Sara and Roger established a visitation schedule in which Stephanie would spend one week with one parent and the next week with the other. Roger's mother provides some of Stephanie's care when Roger has Stephanie.

Sara filed a petition to establish custody, visitation and child support. She also sought reimbursement for expenses associated with Stephanie's birth. Following a hearing, the district court found both parties to be fit parents who loved their daughter. The court, however, awarded physical custody of Stephanie to Roger, primarily based on Sara's resistance to seeking medical treatment. The court noted Roger's family was very supportive.

Sara appeals. She contends she has always been Stephanie's primary caretaker, her schedule is more conducive to being Stephanie's primary caretaker and the parties' respective shortcomings weigh in favor of awarding custody to her. Sara also contends Roger should be ordered

to reimburse her at least \$500 for Stephanie's birthing expenses.

I. Review Standard

Our review is de novo. Iowa Rule App. P. 4. We examine the record made at trial and determine the issues preserved for appeal unimpeded by the findings of the trial court. In re Marriage of Steenhoek, 305 N.W.2d 448, 452 (Iowa 1981). The findings of the trial court are given weight, especially when considering the credibility of witnesses. Iowa Rule App. P. 14 (f)(7).

II. Custody

The criteria for determining child custody is the same for children born to a marriage as for children born out of wedlock. Hodson v. Moore, 464 N.W.2d 699, 700 (Iowa 1983). Numerous factors set forth in Iowa Code section 598.41(3) (1993) assist in making the decision. Gender is irrelevant, and neither parent has a greater burden than the other in seeking custody. In re Marriage of Golay, 495 N.W.2d 123, 125 (Iowa App. 1992). The critical issue in determining the best interests of the child is which parent will do better in raising the child. Id.

The district court found both parties were fit parents, but concluded Roger was better able to serve as the primary physical caretaker of Stephanie. It found Sara was lax and resistant to medical care for herself and Stephanie, and was indifferent on one occasion when Stephanie suffered from severe diaper rash. The trial court also felt Sara

placed her own interests before the safety of Stephanie on a few occasions. Moreover, Roger has shown himself to be a proper caretaker of Sara, and is supported by family members in the area. After reviewing the record de novo, we conclude it is in Stephanie's best interests for Roger to be the primary caretaker. We realize the decision is very close. In such cases, however, our preference is to follow the decision of the trial court, who was able to observe the parents, and was better positioned to evaluate them as custodians. See In re Marriage of Forest, 201 N.W.2d 728, 730 (Iowa 1972).

III. Reimbursement for Birth Expenses

At trial, Sara requested reimbursement of the expenses related to Stephanie's birth and presented evidence in support of her claim. The trial court, however, failed to address the issue in its decision. No posttrial motion was presented to the trial court to resolve the issue.

Our de novo reviewing standard does not relieve a party from preserving issues for review. See Morris v. Morris, 197 N.W.2d 357, 359 (Iowa 1972). It requires us to review anew those issues properly raised and preserved, not to conduct a trial de novo. See In re Marriage of Huston, 263 N.W.2d 697, 699 (Iowa 1978). A motion to enlarge or amend is essential to the preservation of error when the trial court fails to resolve a claim properly submitted to it for adjudication. State Farm Mut. Auto Ins. Co. v. Pflibsen, 350 N.W.2d 202, 206 (Iowa 1984). Since Sara never

preserved error on the issue of reimbursement for the birth expenses, we decline to address it on appeal.

AFFIRMED.