FILED
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CLERK SUPREME COURT

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IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF SHERRIE L. HARRIS AND DALE J. HARRIS

UPON THE PETITION OF **SHERRIE L. HARRIS,**	)	
Petitioner-Appellee,	)	Filed February 21, 1984
AND CONCERNING **DALE J. HARRIS,**	)	4-35 83-1120
Respondent-Appellant,	)	
ELAIN BROWN,	)	
Intervenor-Appellee.	)	

Appeal from the Iowa District Court for Woodbury County, James P. Kelley, Judge.

Respondent-husband appeals from a modification of the decree dissolving the parties' marriage. AFFIRMED.

Wilford M. Forker of Forker & Kanter, Sioux City, for respondent-appellant.

Paul A. Mahr, Sioux City, for petitioner-appellee.

LeRoy Sturgeon of Smith & Smith, Sioux City, for intervenor-appellee.

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

Respondent-husband appeals from a modification of the decree dissolving the parties' marriage. We affirm.

I. Scope of Review

A modification of a dissolution decree is allowed only when there has been a material and substantial change in circumstances since the date of the original decree. In re Marriage of Brown, 247 N.W.2d 2, 4 (Iowa 1976). The original divorce decree awarded Sherrie the custody of the two children. However, the children have been living with their maternal grandmother for several years. This constitutes a substantial change in circumstances justifying a modification of this decree.

II. Custody

The main issue here is whether the trial court in the modification proceedings erred by awarding the children to the maternal grandparent, as opposed to the natural father.

In child custody cases, the first and governing consideration of the courts is the best interests of the child. Iowa R. App. P. 14(f)(15). Ordinarily, a dissolution court should award custody to the natural parent of the children at issue; however, when there is a strong case to the contrary, the court may make the award to another person, including a stranger to the marriage. In re Marriage of Corbin, 320 N.W.2d 539, 545 (Iowa 1982). Even if a parent is fit to have custody, he may be denied custody if it is clearly inimical to the best interests of the child. In re Interest of Mann, 293 N.W.2d 185, 186 (Iowa 1980).

Our de novo review reveals the following evidence. The maternal grandmother has been caring for the children since 1976. She has testified that she has taken care of all the children's needs since that time; she attends all of Kevin's little league games, as well as all the children's school functions and

conferences. The evidence indicates that Kevin has experienced emotional problems stemming from this custody battle and that his school work has suffered accordingly. If the children would live with their father, they would have to change schools, develop new friends, and begin attendance at a different church. Kevin told the court that he wanted to stay with his grandma.

Furthermore, Dale Harris had ample opportunity over the years to remain regular in his contacts with the children. He has failed to do so and has only recently become concerned about their welfare.

We find the evidence strongly supports the conclusions of the trial court. We also find that the evidence indicates that the visitation award was proper. Each parent wants visitation. However, the children also need weekend time at the custodial home to develop their neighborhood friendships. As is, the children will see their father or mother every third weekend and be at home one weekend in three. We find such to be equitable and in the best interests of the children.

Therefore, we affirm the ruling of the trial court and lay this case to rest at last.

AFFIRMED.