

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF DIRK H. BROM AND MARNE E. BROM

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Upon the Petition of)

DIRK H. BROM,)

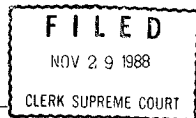
Petitioner-Appellant,)

And Concerning)

MARNE E. BROM,)

Respondent-Appellee.)

8-439
88-193



Appeal from the Iowa District Court for Polk County (CD 54-32361), Ray A. Fenton, Judge.

The husband appeals from the provision of a dissolution decree awarding physical custody of the parties' two minor children to the wife. **AFFIRMED.**

David L. Brown of Hansen, McClintock & Riley, Des Moines, for petitioner-appellant.

Thomas P. Hyland of Hyland, Laden & Pearson, Des Moines, for respondent-appellee.

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

HAYDEN, J.

The petitioner-husband appeals from the provision of the dissolution decree awarding physical custody of the parties' minor children to the wife. He also contends alimony and child support payments awarded to the wife are excessive. We affirm.

I.

Dirk and Marne Brom were married in 1977 while Dirk was in medical school and she was working as a respiratory therapist. They are parents of two minor children. Dirk is now an anesthesiologist. Marne, after working during the last part of their marriage as a travel agent, recently enrolled in Drake Law School with the aim of becoming a lawyer.

The dissolution decree filed in February 1988 awarded Marne physical custody of both children. The decree further ordered Dirk to pay \$1,200 per month child support for each child, plus \$1,200 per month alimony for six years. Additionally, Dirk was ordered to pay Marne's law school tuition and book expenses while she attends the six-year career opportunity program at Drake. It is from this dissolution decree which Dirk now appeals.

II.

Dirk argues two issues on appeal. First, he urges he should have been awarded physical custody of the children, and second, he contests the economic provisions of the decree, arguing they are unreasonable and excessive.

Our scope of review is de novo in dissolution proceedings. Iowa R. App. P. 4. While we give weight to the fact findings of the trial court, especially considering the credibility of witnesses, we are not bound by them. Iowa R. App. P. 14(f)(7); In re Marriage of Vrbanc, 359 N.W.2d 420 (Iowa 1984).

III.

A. Physical Care. The controlling consideration in considering custody is the best interests of the child. Iowa R. App. P. 14(f)(15); In re Marriage of Ullerich, 367 N.W.2d 297, 299 (Iowa App. 1985). As in all child custody determinations, precedent is of little value, and therefore a decision must ultimately depend on the particular facts in each case. In re Marriage of Vrbanc, 399 N.W.2d 420, 423 (Iowa 1984). Our determination of custody is most clearly directed by determining which parent can minister more effectively to the long-range best interests of the children. In re Marriage of Winter, 223 N.W.2d 165, 166 (Iowa 1974). The factors we look to in making this determination are set forth in Iowa Code section 598.41(3) (1987).

There is strong evidence in the record both parties are quite capable of attending to the children's day-to-day needs. We do not make these decisions lightly, and in cases like this one, where it is clear both parents love their children and the children love them, our decision is

made more difficult. However, after a painstaking review of the record in light of the foregoing factors, we believe the children's best long-term interests will be served by giving primary physical care to Marne.

As we have noted, there are strong arguments on both sides why one parent or the other should be given physical custody. The evidence indicates both children are happy and well adjusted, a fact which reflects well on both parents. Dirk and Marne are also considered nurturing and attentive parents by their friends and neighbors. Marne was the primary caretaker of the children until she went back to work as a travel agent, at which time both parties shared equally in the day-to-day tasks of child care. Since the dissolution proceedings began, the children have stayed in the primary care of Marne and have reacted well. This was an important factor to the trial court and it is an important factor to us. Stability is important for children and should be maintained if reasonably possible. In re Marriage of Carrico, 284 N.W.2d 251, 254 (Iowa 1979).

In addition, evidence revealed Dirk still houses a number of negative feelings toward Marne regarding the dissolution. While Marne has shown a better ability to deal with her feelings, while at the same time helping her children to look upon Dirk in his proper role as their father. We must take into consideration which parent would encourage the most contact between the noncustodial parent

and the children. Metallo v. Musengo, 353 N.W.2d 872, 875 (Iowa App. 1984). In this case, it appears Marne is best equipped to encourage this important contact. After a thorough review of the record, we cannot say the trial court erred in awarding physical custody to Marne.

B. Economic Provisions. In contesting the economic provisions of the decree, Dirk asserts that they are inequitable, excessive, and punitive. The decree ordered Dirk to pay \$1,200 per month child support for each child plus \$1,200 per month alimony for six years. Marne argues the economic provisions of the decree are equitable in light of her present role as law student and Dirk's gross salary of approximately \$208,000 per year.

When determining the appropriateness of alimony, the trial court must consider the earning capacity of each party, present standards of living, and ability to pay balanced against relative needs of the other. In re Marriage of Estlund, 344 N.W.2d 276, 281 (Iowa App. 1983). In our de novo review, considering the relative income of the parties, their current needs, and other factors to be considered under Iowa Code section 598.21 (1987), we believe the alimony award was proper both as to amount and duration.

The court may order either or both parents to pay an amount reasonable and necessary for support of a child; consideration must be given to the children's needs, for

close contact with both parents, and recognition of joint responsibility for the welfare of the minor children. Iowa Code § 598.21(4) (1987). To reach a just and equitable determination as to the level of child support, we may consider the parties' age, present earning capacity, future prospects, amount of resources owned by each or both parties, contributions of each to joint accumulations, the children, duration of marriage, indebtedness of each or both, and any other relevant factors. In re Marriage of Byall, 353 N.W.2d 103, 107 (Iowa App. 1983). We determine the child support level imposed by the court under the circumstances is reasonable.

Each party shall pay his or her own attorney fees for this appeal. Costs of appeal are taxed against appellant.

AFFIRMED.