FILED
JAN 26 1983
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

JAMES LEWIS LaFOLLETTE,	)	
Plaintiff-Appellee,	)	Filed January 26, 1983
vs.	)	
GENEVA WISDOM,	)	2-407 3-68521
Defendant-Appellant.	)	

Appeal from Marion District Court, Thomas S. Bown, Judge.

Defendant-mother appeals from trial court decision awarding custody of the six-year-old son of the parties, who lived together but were never married to each other, to the child's father. AFFIRMED.

Kathleen S. Bean, Legal Services Corp. of Iowa, for defendant-appellant.

Jerrold W. Jordan of Johnson, Jordan & Lane, Knoxville, for plaintiff-appellee.

Heard en banc.

PER CURIAM

The parties, James LaFollette and Geneva Wisdom, who formerly lived together but have never been married to each other, are the parents of a boy, Eddie, born in January 1976. When the parties' relationship ended in 1981, Eddie initially remained in his mother's custody. However, James later filed the present equitable action requesting that the custody of Eddie be awarded to him, and the trial court ruled in his favor. Geneva has appealed, contending that the evidence did not support the trial court's conclusion that James could better minister to the child's needs.

On our de novo review of this case, see Iowa R. App. P. 4, we give weight to the trial court's findings, particularly in regard to the credibility of witnesses. In re Marriage of Full, 255 N.W.2d 153, 156 (Iowa 1977). Although this case does not present the typical custody dispute because the parties were never married and the custody determination is thus not in the context of a dissolution, we conclude that the same general principles relevant to any custody award are applicable. See In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974).

An examination of the record reveals that Geneva's only sources of income with which to provide for the children are ADC and food stamps. She has encountered discipline problems with the children from her previous marriages; four of the five of them have been in trouble with the law. Although neither parent has been a paradigm of virtue, testimony presented at trial indicates that James has been a good parent to Eddie, that Eddie has been progressing in school since he has been living with his father, and that he has seemed happier. James has steady employment and can provide an adequate home for Eddie. Even if the criteria relevant to a custody determination were in equipoise, the scales would tip in James' favor in this case by virtue of our rule giving weight to the trial

court's findings. See In re Marriage of McDowell, 244 N.W.2d 238, 239 (Iowa 1976). Furthermore, although Eddie is very young, we think that the fact that he expressed a preference to live with his father and enunciated reasons for this preference is entitled to some weight. See In re Marriage of Winter, 223 N.W.2d 165, 167 (Iowa 1974). We trust that James will strive to become a better custodian for Eddie, and affirm the award of custody to him.

AFFIRMED.