FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF SONYA D. VAN HORN AND DENNIS K. VAN HORN

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Upon the Petition of)

SONYA D. VAN HORN,)

Petitioner-Appellee,) Filed April 24, 1984

And Concerning)

DENNIS K. VAN HORN,) 4-73
83-1011

Respondent-Appellant.)

Appeal from the Iowa District Court for Shelby County - J. C. Irvin, Judge.

Respondent husband appeals from the decree dissolving the parties' marriage, asserting that he should have been awarded custody of the two minor children and that his child support obligation should be reduced. AFFIRMED AS MODIFIED.

Thomas E. Gustafson of Gustafson Law Firm, Denison, for respondent-appellant.

William O. Lewis of Hines, Lewis, Salvo, Deren & Schenck, Harlan, for petitioner-appellee.

Heard by Donielson, P.J., and Snell and Schlegel, JJ.

Sonya D. Van Horn and Dennis K. Van Horn were married in 1975. Sonya works at Land of Lakes packing plant, earning $7.75 per hour. Dennis works at Farmland Foods packing plant, earning $9.35 per hour. The parties have two children: Heather, born in 1977, and Dustin, born in 1980.

The trial court awarded Sonya custody of the children "[b]ecause of the age of the children and the need for Heather to have her mother's care." The trial court allowed Dennis visitation of three weekends a month, three weeks in the summer and part of each Christmas holiday. It directed Dennis to pay $375 per month child support.

On appeal, Dennis challenges the award of custody and the excessiveness of the child support obligation. Our review is de novo. Iowa R. App. P. 4 (1983). We review the entire record and adjudicate anew the rights of the parties on issues properly presented and preserved. In re Marriage of Full, 255 N.W.2d 153, 156 (Iowa 1977). We are not bound by the trial court's findings of fact, but we give them weight, especially with regard to the credibility of witnesses. Iowa R. App. P. 14(f)(7); In re Marriage of Novak, 220 N.W.2d 592, 597 (Iowa 1974); In re Marriage of Bowen, 219 N.W.2d 683, 687 (Iowa 1974).

I. Child Custody. We review the trial court's order in light of the factors enumerated in In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974), bearing on the determination as to which parent will better provide for the child's needs. As always, the paramount consideration in any custody dispute is the long-term best interests of the child. Iowa R. App. P. 14(f)(15); In re Marriage of Sparks, 323 N.W.2d 264, 266 (Iowa Ct. App. 1982); Schoonover v. Schoonover, 228 N.W.2d 31, 34 (Iowa 1975).

Both children seem to be mentally and physically healthy; neither one has any special educational or emotional needs. The children apparently have good relationships with both parents. However, Sonya demonstrated greater capacity

and interest in providing and caring for the children during the marriage. Although she has moved the children three times since the parties separated, there appears to have been adequate reasons for the moves. Dennis has exhibited erratic behavior regarding the children since the separation. He has taken Heather out of school for days; he has refused to let Sonya know where they are. He is in arrears on his child support payments but managed to find money for expensive jewelry for himself. There is evidence that he was seen eating breakfast with the children at a restaurant at 2:00 a.m.

Dennis claims the children would be staying with his parents most of the time while he is working. He argues that this would provide stability. The record shows that the children are already accustomed to staying with Sonya's sister and mother. Although no permanent arrangement has been set up between Sonya and her relatives, an extended family relationship with the children already exists. Disrupting the existing custodial status would be less beneficial to the children than any benefits they would gain by Dennis's proposals.

Applying the operative facts in this case under the Winter criteria leads us to believe that it is in the childrens' best interests that their custody be with their mother. Our belief is bolstered by our rule giving weight to trial court's findings. In re Marriage of McDowell, 244 N.W.2d 238, 239 (Iowa 1976); In re Marriage of Ringus, 266 N.W.2d 805, 807 (Iowa 1975); In re Marriage of Callahan, 214 N.W.2d 133, 136 (Iowa 1974). Dennis has not presented a sufficiently persuasive cause to modify the custody provisions of the decree. We affirm the trial court's resolution of the custody decree.

II. Child Support. The trial court ordered Dennis to satisfy the parties' joint indebtedness of $3,480.00. Dennis argues that the court only looked at the two parties' income when determining the amount of child support Dennis should pay each month and the court did not consider that it had saddled Dennis with the

debts of the marriage as well. He requests that the child support be reduced to a more equitable figure.

The Iowa Supreme Court has given guidelines to use when determining the appropriate child support award:

> Factors to be considered are parties' age, health, present earning capacity, future prospects, amount of resources owned by each or both parties, contributions of each to the joint accumulations, the children involved, duration of the marriage, indebtedness of each or both, and any other relevant factors which might assist the trial court in reaching a just and equitable decision.

In re Marriage of Zoellner, 219 N.W.2d 517, 525 (Iowa 1974).

Sonya testified that each month she spends $200 on rent, $235 for food, $140 for clothing, $100 for car expenses, $140 for utilities and phone charges, and $200 for babysitting. We estimate that the amount of these expenses attributable solely to the children would be $550 per month. The parties earn similar salaries and own similar property. Dennis earns, after taxes, approximately $20 more per week than Sonya does, but he is obligated with more indebtedness. Taking all of these things into consideration, we find Dennis should bear slightly more than half the amount needed to support the children. We find the appropriate child support award to be $300 per month and modify the decree accordingly.

Sonya requests attorney fees for this appeal. We find that Dennis should pay $500 of Sonya's attorney fees.

AFFIRMED AS MODIFIED.