IN THE COURT OF APPEALS OF IOWA

FILED
JAN 27 1988
CLERK SUPREME COURT

IN RE THE MARRIAGE OF ALICE JEAN GISEL AND RICHARD GAIL GISEL

Upon the Petition of **ALICE JEAN GISEL,**	)	
Petitioner-Appellee,	)	Filed January 27, 1988
And Concerning **RICHARD GAIL GISEL,**	)	7-574 / 87-810
Respondent-Appellant.	)	

Appeal from the Iowa District Court for Clinton County (No. CD 10948) - C. H. Pelton, Judge.

Petitioner appeals the physical care and support provisions of the dissolution decree. **AFFIRMED.**

Edward J. Kross, of Shaff & Farwell, Clinton, for appellant.

John P. Murphy, of Holleran, Shaw, Murphy & Stroutner, Clinton, for appellee.

Considered by Oxberger, C.J., and Sackett, and Habhab, JJ. Schlegel, J., takes no part.

SACKETT, J.

Petitioner Richard G. Gisel appeals challenging the trial court's decision awarding his wife physical care. He also contends the child support and tax exemption provisions are inequitable. We affirm.

Respondent-Appellant Richard G. Gisel and Petitioner-Appellee Alice Jean Gisel (Jean) were married in 1971. They have four children born in 1973, 1976, 1983 and 1984. Both are employed outside the home. Richard, forty-six years old at the time of trial, has a maintenance job and earns $19,600 annually; Jean, thirty-nine years old at the time of trial, is a teacher and earns $15,636 annually. The trial court found the parties to be able parents and determined either could care for the children. Physical care was awarded to Jean.

I.

On our de novo review, see Iowa R. App. P. 4, we agree with the trial court that both parties are able parents and are capable of meeting the childrens' needs. We find the custody issue to be a close question. We have considered the issue in accord with the dictates of Iowa Code section 598.41(3) and applicable case law. See In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974); In re Marriage of Bowen, 219 N.W.2d 683, 688 (Iowa 1974). We find no reason to disturb the trial court's ruling.

II.

Richard's next contention is the trial court should have required Jean to pay him child support for the thirteen summer weeks the children are in his care and should have given him the income tax dependency exemptions for all four children. Richard was ordered to pay Jean child support of $125 per week for thirty-nine weeks and give two tax exemptions. We agree with his contention that both parties have an obligation to support their children not

necessarily equally but in accordance with their ability to pay See In re Marriage of Fleener, 247 N W 2d 219, 221 (Iowa 1976), In re Marriage of Bornstein, 359 N W 2d 500, 504 (Iowa App 1984)

We consider the factors of Iowa Code section 598 21(4) and applicable case law See In re Marriage of Anderson, 400 N W 2d 84, 85-86 (Iowa App. 1986), In re Marriage of Byall, 353 N W 2d 103, 107-08 (Iowa App. 1984); In re Marriage of Butler, 346 N W 2d 45, 46 (Iowa App 1984)

We affirm the trial court on the child support and tax exemption issues.

AFFIRMED