

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF BOBBI JOLENE BRIDE
AND FARRIS LEE BRIDE

FILED

JUN 15 1989

CLERK SUPREME COURT

Upon the Petition of)

BOBBI JOLENE BRIDE,)

Petitioner-Appellee,)

And Concerning)

FARRIS LEE BRIDE,)

Respondent-Appellant.)

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9-224
88-1149

Appeal from the Iowa District Court for Wapello County
(18-0787), Daniel F. Morrison, Judge.

Respondent husband appeals from the decree granting his
wife physical custody of their daughter. **VACATED AND
REMANDED.**

E. Richard Meadows, Jr. of Vinyard, Curran & Meadows,
Ottumwa, for respondent-appellant.

Richard J. Gaumer of Webber, Gaumer & Emanuel, Ottumwa,
for petitioner-appellant.

Heard by Oxberger, C.J., and Hayden and Sackett, JJ.

PER CURIAM

Respondent-Appellant Farris Lee Bride is appealing from the dissolution decree entered in the district court which granted Petitioner-Appellee Bobbi Jolene Bride physical custody of the parties' daughter, Jessica.

Farris requests the decree be modified to grant him physical custody. Alternatively he requests a remand to present additional evidence from witnesses which the district court did not give him an opportunity to call.

We find such a remand should be allowed in this case. The trial was held on July 5, 1988. At the conclusion of Mr. Farris's testimony at 4:43 p.m. that day, Mr. Farris's counsel requested an opportunity to call his office to determine the progress made in contacting additional witnesses. The district court denied this request, closed the record and denied Farris the opportunity to present any further evidence.

Due process requires that the parties be given opportunity to present their evidence. The trial court did not provide Farris due process. The previous decision entered in this case is vacated. The trial court shall schedule a hearing and permit Farris the opportunity to present his evidence. After completion of the record the trial court shall enter a new decision. Any further appeal shall be from the new decision.

Vacated and remanded.