IN THE COURT OF APPEALS OF IOWA

No. 0-568 / 00-794
Filed November 8, 2000

IN RE MARRIAGE OF CHRISTOPHER SCOTT SNEDEKER AND LORI LYNN SNEDEKER

Upon the Petition of
CHRISTOPHER SCOTT SNEDEKER,
Petitioner-Appellee,

And Concerning
LORI LYNN SNEDEKER,
Respondent-Appellant.

FILED
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CLERK SUPREME COURT

Appeal from the Iowa District Court for Winnebago County, Stephen P. Carroll, Judge.

Lori Snedeker appeals following the district court's modification order awarding primary physical care of the parties' child to Christopher Snedeker. **AFFIRMED.**

Mark A. Newman, Forest City, for appellant.

Kristy B. Arzberger of Arzberger Law Office, Mason City, for appellee.

Considered by Zimmer, P.J., and Hecht and Vaitheswaran, JJ.

ZIMMER, P.J.

Lori Snedeker appeals a district court ruling granting Christopher Snedeker's application for modification of primary physical care of the parties' minor child. She contends the district court erred in ruling her former spouse had shown a substantial change in circumstances justifying the transfer of physical care of their son. We affirm.

I. Background Facts and Proceedings. Lori and Chris married in January 1992. Their son, Mitchelle, was born in September 1992. The parties separated in 1994. Their marriage was dissolved by a dissolution decree entered in January 1996. By agreement of the parties, the decree granted Lori primary physical care of Mitchelle.

In September 1998, when Mitchelle was six, Chris filed an action requesting that physical custody of Mitchelle be transferred to him. Among other things, he alleged Lori had not provided a stable environment for Mitchelle and had made Mitchelle a low priority in her life. Following trial, the district court concluded Mitchelle's primary physical care should be transferred to Chris.

Lori appeals. She claims Chris failed to show a substantial change in circumstances that was permanent or continuous justifying a custody transfer. She further argues that she stabilized her lifestyle during the two years prior to the entry of the modification order.

II. Standard of Review. We review the record de novo in a proceeding to modify the custodial provisions of a decree. *Dale v. Pearson*, 555 N.W.2d 243, 245 (Iowa App. 1996). We give weight to the findings of the trial court, although they are not binding. *Id.*

III. Modification of Custody. The court can modify custody only when there has been a substantial change in circumstances since the time of the decree that was not contemplated when the decree was entered. *In re Marriage of Walton*, 577 N.W.2d 869, 870 (Iowa App. 1998). The change must be more or less permanent and relate to the welfare of the child. *Id.* Additionally, the parent seeking custody must prove an ability to minister more effectively to the child's well-being. *Dale*, 555 N.W.2d at 245. This strict standard is premised on the principal that once custody of a child has been determined it should be disturbed only for the most cogent reasons. *Id.*

After carefully considering the evidence, the trial court concluded Mitchelle's primary physical care should be transferred to Chris. Upon de novo review of the record, we reach the same conclusion.

Since entry of the decree, Lori has not been a nurturing mother for Mitchelle on a day-to-day basis. The district court found that her life has been characterized by disorganization and instability. Lori has moved frequently and held several jobs as a stripper. At times, Lori has made it difficult for Chris to maintain a relationship with his son by failing to provide her former spouse with addresses and phone numbers when she moved. The trial record also reveals several instances when she denied Chris visitation without just cause. Her commitment to meeting her son's physical and emotional needs has been erratic at best. Because of her hours of employment as a stripper, Lori was often unavailable to care for Mitchelle. As a result, her boyfriend frequently took care of Mitchelle at night. Mitchelle was often left to fend for himself during the day while Lori slept. At one point in time when Lori was moving frequently, she and

Mitchelle were among five people living in a one-bedroom apartment in El Paso, Texas.

In August of 1997, Lori moved back to Forest City, Iowa, her hometown. The trial court found Lori's life stabilized to a minimal extent after she moved to Forest City, but concluded that she still had not developed into a nurturing mother committed to her son. Lori has had some difficulty making her own way since returning to Iowa. She has worked as a gas station attendant, a fast food server at Hardee's, a bartender, and a nursing home attendant.

In contrast to Lori, the district court found Chris's life has been marked by stability and consistency since the divorce decree was entered in 1996. Chris's employment with the armed forces is stable. His employment offers him the flexibility to meet his family's needs. Chris has developed a solid, loving relationship with his second wife, Sheri, whom he married in September of 1997. Sheri runs a licensed day care center from her home and is readily available to Mitchelle and her other children. The trial court found Chris has stability and direction in his life and is committed to his family, including Mitchelle.

The testimony shows Chris is able to provide Mitchelle with the loving, nurturing environment that he deserves. Chris has demonstrated a greater capacity than Lori to provide for the emotional, social, moral, material, and educational needs of Mitchelle. Chris can also serve Mitchelle as a role model of a mature adult who takes personal responsibility for himself and his family. The district court was correct in concluding the circumstances warrant modification of custody. We affirm the district court's decision in its entirety.

AFFIRMED.