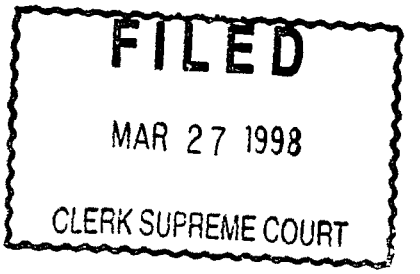
IN THE COURT OF APPEALS OF IOWA 000101



No. 7-746 / 96-2232
Filed March 27, 1998

IN RE THE MARRIAGE OF TONYA S. ERICKSON AND MICHAEL ERICKSON

Upon the Petition of
TONYA S. ERICKSON,
Appellee,

And Concerning
MICHAEL ERICKSON,
Respondent.

And Concerning
JOYCE ERICKSON,
Appellant.

Appeal from the Iowa District Court for Chickasaw County, James L. Beeghly, Judge.

A grandmother appeals from a district court order granting her only supervised day visits with her granddaughter. **AFFIRMED AS MODIFIED.**

Kevin Schoeberl of Story & Schoeberl Law Firm, Cresco, for appellant.

No appearance for appellee.

Considered by Cady, C.J., and Sackett and Huitink, JJ. Mahan, J., takes no part.

HUITINK, J.

A grandmother appeals from a district court order granting her only supervised day visits with her granddaughter. We affirm as modified in this memorandum opinion pursuant to Iowa Supreme Court Rule 9.

Tonya and Michael Erickson are the parents of Caysie, born in February 1993. Tonya had two children, Misty and Travis, from a previous relationship. The parties separated, and Michael exercised visitation with all three children. After one visit, Misty alleged Michael had touched her in an inappropriate manner. Michael subsequently entered an Alford plea to two counts of indecent contact with a child.

Tonya filed a petition for dissolution of marriage. Michael's mother, Joyce Erickson, filed a petition seeking grandparent visitation rights. The parties' dissolution decree placed primary physical care of Caysie with Tonya.

In a separate order concerning visitation, the court granted Michael day visitation on alternating Saturdays. Michael agreed not to exercise all of his visitation and to allow Joyce to have exclusive visitation once every four weeks. Michael is only permitted supervised visitation. The court also ordered Joyce's visitation to be supervised to make sure Joyce does not permit Michael to have unsupervised contact with Caysie. Joyce has appealed.

Our review in this case is de novo. *Graves v. Eckman,* 550 N.W.2d 470, 471 (Iowa App. 1996). We give weight to the fact findings of the trial court, especially

when considering the credibility of witnesses. Iowa R. App. P. 14(f)(7). However, we are not bound by these determinations. *Id.*

Joyce asserts she should have been granted weekend visitation with Caysie. Tonya testified Joyce could have weekend visits at some time in the future. At the time of the visitation hearing, Joyce had not seen Caysie for eight months. We agree with the district court's conclusion it would be better to have only days visits for the present time.

Joyce also asserts her visitation with Caysie should not be supervised. We determine this restriction should be eliminated. Conditions on visitation may be considered demeaning. *In re Marriage of Fite,* 485 N.W.2d 662, 664 (Iowa 1992). A court should place conditions on visitation rights only when visitation without the placement of conditions is likely to result in direct physical harm or significant emotional harm to the child, other children, or a parent. *In re Marriage of Rykhoek,* 525 N.W.2d 1, 5 (Iowa App. 1994). Tanya testified she had no fears Joyce would harm Caysie.

Joyce was required to have supervised visitation only to make sure Joyce did not permit Michael to have unsupervised contact with Caysie. From Joyce's testimony, it is clear she understands Michael cannot be alone with Caysie. If Joyce behaves irresponsibly during visitation, her conduct may be grounds for reduction or elimination of visitation. *See Fite,* 485 N.W.2d at 664.

We modify the terms of the visitation order to eliminate the requirement Joyce's visitation be supervised. We affirm on all other issues. Costs of this appeal are assessed one-half to Joyce and one-half to Tonya.

AFFIRMED AS MODIFIED.