FILED
MAY 31 1988
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF APRIL JO RUSSELL AND SCOTT RUSSELL

Upon the Petition of, **APRIL JO RUSSELL,**	)	232
Petitioner-Appellee,	)	Filed May 31, 1988
And Concerning **SCOTT RUSSELL,**	)	8-26 87-968
Respondent-Appellant.	)	

Appeal from the Iowa District Court for Black Hawk County (No. 33438) - L. D. Lybbert, Judge.

Respondent husband appeals from a modification of the decree dissolving the parties' marriage. **AFFIRMED.**

Paul T. Shinkle, Cedar Falls, for appellant.

Sara Kersenbrock, Waterloo, for appellee.

Heard by Oxberger, C.J., and Donielson and Schlegel, JJ.

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The respondent, Scott Russell, is appealing the modification of the parties' dissolution decree. He contends the trial court should have given physical custody of the parties' daughter to him. The petitioner, April Russell, requests attorney fees for the appeal. We affirm.

The parties' marriage was dissolved in June 1985. The decree incorporated a stipulation which created a joint custody arrangement and alternated physical care of Tanya on a weekly basis. The stipulation also provided that when Tanya reached school age permanent placement would occur. The parties were unable to agree on the placement and Scott brought this action for a modification.

The trial court placed physical custody of Tanya in her mother, and Scott has now appealed. We review de novo. Iowa R. App. P. 4.

Our de novo examination shows that either April or Scott would be a suitable parent for Tanya. They both provide Tanya with love, affection, and life's necessities. We conclude, however, that Tanya's best interests dictate she remain in the care of her mother.

We find that Tanya has a very close relationship with her mother. The record discloses that Tanya is more emotionally stable and normal when with April. Tanya's teacher testified that Tanya's behavior changes when she is living with her father. She is quite tense, cautious, and requires more attention when she is living with her father. This behavior is not present when she lives with her mother.

By placing Tanya with her mother she will have the opportunity for the maximum physical and emotional contact with both parents. Scott has interfered in the relationship between Tanya and her mother. He has made disparaging remarks about April in Tanya's presence. Tanya has made statements indicating

that Scott said he would take her away. Scott says he made such a statement as a joke.

By placing physical custody with Scott, we would be splitting up Tanya and her half-sister Michelle. Siblings should only be separated for compelling reasons. In re Marriage of Gonzales, 373 N.W.2d 152, 155 (Iowa App. 1985). We find no compelling reason to separate Tanya and Michelle. They have a very close relationship and share an interest in dance and tumbling. Separating them would have an adverse impact on Tanya.

April requests attorney fees for this appeal. The allowance of fees on appeal is not a matter of right but depends on the parties ability to pay. In re Marriage of Butler, 346 N.W.2d 45, 47 (Iowa App. 1984). Scott earns $17,500 per year, while April earns $14,500 per year. The parties shall pay their own attorney fees. Costs are taxed to Scott.

The judgment of the district court is affirmed.

AFFIRMED.