FILED
NOV 26 1985
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF YVETTE ANN WOLF AND RONALD JOSEPH WOLF

UPON THE PETITION OF **YVETTE ANN WOLF,**	)	543
Petitioner-Appellee,	)	Filed November 26, 1985
AND CONCERNING **RONALD JOSEPH WOLF,**	)	5-441 / 85-327
Respondent-Appellant.	)	

Appeal from the Iowa District Court for Dubuque County - Robert J. Curnan, Judge.

Respondent-husband appeals from the decree dissolving the parties' marriage. **MODIFIED.**

Mark S. Beckman of Pfeiler & Pierce, Dubuque, for respondent-appellant.

Joseph J. Bitter, Dubuque, for petitioner-appellee.

Considered by Oxberger, C.J., and Snell, and Sackett, JJ.

SACKETT, J.

Respondent Ronald Wolf appeals from that portion of the trial court order awarding physical care of the parties' minor child Michelle to Petitioner Yvette. When the parties were married in April of 1979, Yvette was seventeen and Ronald was twenty. Michelle was born in October of 1979.

Our review is de novo. Iowa R. App. P. 4.

The trial court found and we agree that both parents assumed responsibility for Michelle during the marriage and either parent is capable of assuming physical care. We must, therefore, determine under the whole record which parent can more effectively minister to the long-range best interest of the child. In re Marriage of Winter, 223 N.W.2d 165, 166 (Iowa 1974).

Ronald lives in a trailer house on his parents' farm. He has a healthy relationship with his parents and siblings. Ronald's parents assisted with the care of the child during the marriage and the child has a close relationship with them. Ronald has exhibited financial maturity and is currently without debt. He has had stable employment and now is employed by the Iowa Department of Transportation some twelve miles from his home.

Yvette admittedly married to escape an uncomfortable situation in her mother and stepfather's home. She has little family contact. She agreed initially with advice of counsel to relinquish custody to Ronald. She has established relationships with several different men during the separation. She has maintained little stability in employment.

A psychologist who evaluated the family suggested joint-physical custody but determined that if joint-physical custody did not work sole custody should be given Yvette. No reason was given for this suggestion. A careful study of the evaluation would indicate this decision was influenced in part by a struc-

tured doll play test where various scenes in a child's life are set up with dolls with cardboard drawings. The child is asked to make choices as to the parent with which she interacts in each scene and then is asked to doll play the action. Michelle consistently chose her mother. The psychologist's report fails to detail the validity of such tests on the conclusions drawn therefrom.

After a careful consideration of the record, we determine the child has a better chance to have a stable and wholesome environment with Ronald, and we modify the decree so as to award physical care to him.

The trial court has determined Ronald should have extremely liberal visitation and set forth those rights in detail in the decree. We further modify the decree to provide that those rights now be extended to Petitioner Yvette.

MODIFIED.

All judges concur except Oxberger, C.J., who dissents.

OXBERGER, C.J., (dissenting).

I dissent.

While the majority claims Ronald has shown financial maturity, his other actions have indicated he is not a mature father.

In the summer of 1984, Ronald quit his job, took Michelle, and refused to let Yvette know where the child was or have contact with her for ten days. He told Yvette he was taking the child to Colorado and she would never see her again. Ronald finally let Yvette see the child on her birthday. As they were leaving the building, Yvette turned and locked herself and Michelle in the house, saying she was afraid she would never see her child again if she did not act. Ronald then put his fist through the door, unlocked it, took Michelle and went to the car. Michelle witnessed the entire incident. As Ronald was about to leave, the police intervened. Yvette says she was prevented from contacting her daughter on two other occasions.

Ronald admitted during his testimony he did not tell Yvette where the child was or let her see her mother on one occasion. He says he cannot remember the other two incidents. He further agreed he had put his hand through the door after Yvette locked herself and the child in the house. He says now it was not a fair thing to do.

I believe this is a strong indication against disturbing the court's custody award. The conduct of one parent in depriving the other of contact with the child is "a most serious reflection on (that parent's) capacity to retain custody." Id. An interference in the other parent's relationship with the child is a factor mitigating in favor of an award of sole custody to the other parent. In re Marriage of Bolin, 336 N.W.2d 442, 446 (Iowa 1983); In re Marriage of Burham, 283 N.W.2d 269, 276 (Iowa 1979). Ronald's violence in his attempts to regain the child further evidence his lack of maturity.

I also give weight to the psychologist's findings. Her conclusions were not based solely on watching the child play with dolls. The doctor also conducted three interviews with Ronald, three with Yvette, gave two tests to Michelle, and conducted a session with the child in addition to the structured doll play test.

I also disagree with the majority's concern about Yvette's dating. The court has stated one parent's social life should not be a significant factor unless it in some way adversely affects the child. See, In re Marriage of Kramer, 297 N.W.2d 359, 362 (Iowa 1980); In re Marriage of Kehrli, 241 N.W.2d 923, 924 (Iowa 1976). While Ronald thinks Yvette should be more discreet, there is nothing in the record to show there is harm to the child from Yvette's dating. As long as that parent's activities do not affect the child, I do not believe a parent's dating should be given the emphasis the majority does.

Considering the thoughtful and thorough analysis of the psychologist, Ronald's attempts to prevent Yvette from contact with the child, and other factors set out at Winter, I agree with the trial court that an award of physical custody should be made to Yvette.