FILED
OCT 23 1984
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF MARK E. EDGINGTON AND DODI M. EDGINGTON

289

UPON THE PETITION OF
MARK E. EDGINGTON,

Petitioner-appellee,

AND CONCERNING
DODI M. EDGINGTON,

Respondent-Appellant.

Filed October 23, 1984

4-69
83-941

Appeal from the Iowa District Court for Guthrie County, Jack D. Levine, Judge.

Petitioner on appeal challenges the trial court's custody, visitation, child support, and attorneys fees award. AFFIRMED.

Martin L. Fisher of Fisher, Fisher & Fisher, Adair, for respondent-appellant.

Donald R. Ferree, Panora, for petitioner-appellee.

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

This dispute primarily involves the decision of the trial court regarding custody, visitation, and support of the parties' young child. In a decree which dissolved the parties' marriage, legal custody was given to the father, on the condition the child remain in the home of the father's parents. The petitioner-mother, Dodi Edgington, claims numerous errors on appeal in the court's decision regarding the award of custody, her visitation rights, that child support she must pay is too high, and the contribution required by respondent to her attorneys fees is too low. We affirm the judgment of the trial court on all aspects of the appeal.

The respondent in this appeal, Mark Edgington, filed the dissolution petition in February 1983 in Guthrie County. A few days later petitioner filed a dissolution action in Illinois, where she and the one-year-old child were living. Ultimately the courts decided the action should proceed in Iowa. Judge Strickler here ordered that a child placement investigator be appointed to the case, and the child was to be returned to Iowa by the time of the temporary custody hearing April 11, 1983. When the child was not returned by that date, the investigation was deferred by Iowa district Judge M. C. Herrick. Petitioner challenged the order, saying she had left because she feared her husband and lacked funds to return. The case proceeded to trial without the benefit of the investigation, and on June 16 a decree was entered with the custody provisions outlined above. Dodi was given visitation rights as well. This case came to our attention on appeal, and we remanded so that an investigation could be completed. The investigation was completed, and a hearing held to present evidence regarding matters occurring in the interim. We now reach our decision regarding custody, visitation, and child support.

Throughout the trial and at the hearing, both parties presented evidence which each claimed showed the other was an unfit parent. Mark says that Dodi is a sloppy housekeeper, did not give the child, Stephanie, her medication for her

various respiratory problems, and did not clothe the child properly. At the hearing each party accused the other of causing the child to contract the skin condition scabies. Mark also says that since the child has lived at his parents' house from the date of the decree, with the exception of visits to the mother, she should remain there. Dodi at trial said that Mark had a violent temper, and in one instance frightened the child by throwing a glass against the wall and screaming in front of her. She also says Stephanie has picked up foul language while living at the home of Mark's parents, and says Mark shows indifference toward the child.

Mark is unemployed, but has found some work at odd jobs. He did not complete his high school education. His family recently filed for bankruptcy, and on cross-examination it was revealed that Mark has several small claims actions decided against him which judgments have not been satisfied. Mark was sentenced in a charge of fifth-degree theft for passing a bad check. He has been charged three times, and found in contempt twice, for operating a motor vehicle while his license was under suspension. Mark's mother works and his father is disabled. The elder Edgington takes care of the child while Mark and his mother are at work. Mark, his mother and younger sister all professed affection for the child and described her average day as including a child's normal experience of play and various activities.

Since the time of trial Dodi has left Illinois. She was going to move to Arizona with a boyfriend. She had purchased the plane tickets. When the situation with the boyfriend did not work out at the very last minute, she went to Florida. This was in March of 1984. The hearing was on June 28, 1984, and she still had no job in Florida, other than mowing lawns. Dodi lived in a mobile home with her mother and stepfather. When she moved she made no effort to advise Mark of the location. She has an unlisted number. She had lived with her mother and stepfather before her marriage but left the home with her aunt one day after

a dispute with her stepfather. She has not paid minimal child support. We find little stability in her situation.

The controlling consideration in determining custody is the best interests of the child. Iowa R.App.P. 14(f)(15)(1983). In deciding this question we review the record de novo. Iowa R.App.P. 4(1983). We give weight to the findings of the trial court but are not bound by them. In re Marriage of Novak, 220 N.W.2d 592, 597 (Iowa 1974). There is no inference favoring one party as opposed to the other in deciding which one should have custody. In re Marriage of Bowen, 219 N.W.2d 683, 688 (Iowa 1974). We determine each case on its own facts to decide which parent can administer more effectively to the long-range interests of the child. In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974).

The child placement investigation was completed as ordered. At best, the investigator made a weak recommendation that physical care of the child remain with the mother. The investigator recognized the major influence Mark's parents have had on this little girl. We give consideration to this aspect of the report in arriving at our decision. See In Re Marriage of Welbes, 327 N.W.2d 756, 758 (Iowa 1983). We feel the continued best interests of Stephanie will be best served if she is in the custody of her father in the home of her paternal grandparents. We therefore affirm the judgment of the trial court.

AFFIRMED.

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

OXBERGER, C.J., (dissenting).

I dissent. The dissenting justices in Welbes, cited by the majority in this case, pointed out the problem also inherent in this case; i.e., there is no reason to believe Mark will continue to reside in his parents' home one moment longer than will be convenient for him in light of his own record of erratic and irresponsible behavior.

I agree with the child psychologist appointed by the court that the best interest of Stephanie will be served by placing her in her mother's home.