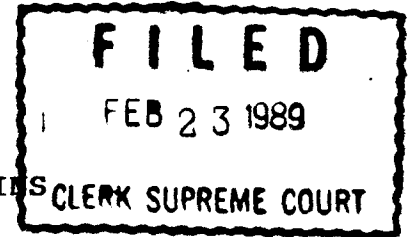


IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF GAIL DENISE PRINS
AND STEVEN JOHN PRINS



Upon the Petition of)

GAIL DENISE PRINS,)

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Petitioner-Appellant,)

And Concerning)

STEVEN JOHN PRINS,)

8-407
88-410

Respondent-Appellee.)

Appeal from the Iowa District Court for Osceola County
(297), Tom Hamilton, Judge.

The wife appeals the provision of a dissolution decree
awarding the husband physical custody of the parties' minor
child. **AFFIRMED.**

Harold D. Dawson of Corcoran, Skiver, Zito, DeKoter &
Thole, Sibley, for petitioner-appellant.

Randall G. Sease, Hartley, for respondent-appellee.

Considered by Oxberger, C.J., and Donielson, Schlegel,
Hayden, and Habhab, JJ. Sackett, J., takes no part.

DONIELSON, J.

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Respondent wife appeals the decree dissolving the parties' marriage. She claims that the trial court erred in awarding physical custody of the parties' minor child to petitioner husband. She also contends that the trial court erred in its valuation of the couple's house. We affirm.

Petitioner, Steven John Prins, and respondent, Gail Denise Prins, were married in 1982 and are the parents of a minor child, Bridget, born in 1982. During the early years of their marriage, both parties had full-time jobs and Steven's mother cared for Bridget during the day. In August 1986, Gail took Bridget and left the family home located in Hartley, Iowa, and moved into her parents' home in Ocheyedan, Iowa. At the time, Steven agreed to this arrangement. Gail is currently enrolled in college pursuing a degree in elementary education, and earns \$25.00 per week working at a day care center at the college campus. In addition to \$185 in temporary child support, Gail has received assistance from her parents in the form of shelter, food, and transportation. Her college costs are paid through loans and Pell grants. Steven is employed in his father's plumbing business and earns approximately \$14,000 per year.

The decree of dissolution, filed on March 15, 1988, awarded sole custody of Bridget to Steven, subject to liberal visitation rights in Gail. This custody award was

based upon the trial court's findings that Bridget is afraid of her maternal grandfather, Charles Hellinga, in whose home she is currently residing. The court also found that Bridget was in day care more than 20 hours a week while in her mother's temporary custody, and was particularly concerned with Gail's matter-of-fact statements and lack of enthusiasm regarding her daughter.

Our review in dissolution actions is de novo. Iowa R. App. P. 4. Even though we are not bound by the trial court's findings, our rule is to give them weight. Iowa R. App. P. 14(f)(7).

I. Physical Custody. In child custody cases, the best interests of the child is the first and governing consideration. Iowa R. App. P. 14(f)(15). The factors the court considers in awarding custody are enumerated in Iowa Code section 598.41(3) and in In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974). The critical issue in determining the best interests of the child is which parent will be better in raising the child; gender is irrelevant and "neither parent should have a greater burden than the other in attempting to gain custody in a dissolution proceeding." In re Marriage of Ullerich, 367 N.W.2d 297, 299 (Iowa App. 1985) (citing In re Marriage of Bowen, 219 N.W.2d 683, 689 (Iowa 1974)).

Our examination of the record in light of Winter and section 598.41(3) convinces us that Bridget's best

interests will be served if custody remains with Steven. Both parties appear to be fit and proper parents. As a result, our job is to determine in whose custody the long range best interests of the children will be better served. In re Marriage of Weidner, 338 N.W.2d 351, 357 (Iowa 1983). However, the district court chose Steven after listening to the parties and watching them in person. We pay very close attention to the trial court's assessment of the credibility of the witnesses. In re Marriage of Vrbanc, 359 N.W.2d 420, 423 (Iowa 1984). It has the benefit of the impression created by observing the demeanor of each and every witness as the testimony is presented. Id. We have only the printed record from which to judge the equities in this matter. We find no reason to disrupt the trial court's decision.

The long run best interests will be served by placing the child with the parent who will provide the more stable, nurturing home environment. The trial court found the father would provide predictable and reliable surroundings. Gail has moved away from the family home and is in college. As a result Bridget now spends many hours a week in day care instead of spending time with family members. Steven has stable employment. At trial, Steven was attentive to the child while the mother showed no joy and lacked enthusiasm towards her daughter. Giving weight to these findings, we agree that in the long run, Bridget's

interests will be better served by placing her in Steven's physical care. Therefore, the decision of the district court is affirmed with respect to physical custody, visitation, and child support.

II. Property Award. Gail further claims that the trial court erred in its valuation of the parties' marital residence. The court heard testimony from Gail's appraiser, a member of the National Association of Appraisers, who valued the marital residence at \$20,500. Steven's appraiser, a local realtor, appraised the value of the marital residence at \$16,500. Based on this collective testimony, the trial court found the value to be \$18,000. We believe that the court's determination is based upon a permissible range of the evidence, and we are not inclined to disturb it. See In re Marriage of Bare, 203 N.W.2d 551, 554 (Iowa 1973).

III. Attorney's Fees. Gail has requested attorney fees on appeal. In evaluating a request for attorney fees on appeal, the court must consider the needs of the party making the request and the ability of the other to pay. In re Marriage of Ertmann, 376 N.W.2d 918, 922 (Iowa App. 1985). Upon consideration of the parties' respective financial conditions, we direct Steven to pay \$750 towards Gail's attorney fees on appeal.

AFFIRMED.

Hayden and Habhab, JJ., concur; Schlegel, J., and Oxberger, C.J., concur in part and dissent in part.

SCHLEGEL, J. (concurring in part and dissenting in part)

I dissent from that portion of the majority's opinion affirming the trial court's custody award.

My examination of the record in light of Winter and Iowa Code section 598.41(3) convinces me that Bridget's best interests would be served if Gail is named her primary physical custodian. The record supports a finding that, on the whole, Gail has provided for the daily emotional, physical, and spiritual needs of Bridget and has been the primary nurturing parent to Bridget all of her life. I do not believe the evidence supports the majority's determination that Bridget's best interests would be served if placed with Steven.

Oxberger, C.J., joins this special concurrence and dissent.