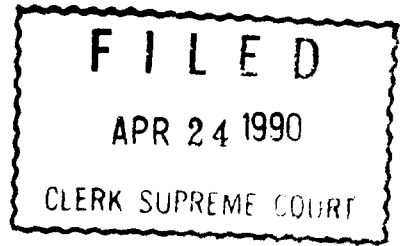


IN THE COURT OF APPEALS OF IOWA

No. 0-160 / 89-1015



JOANNE ORTH,

Appellee,

vs.

JANET ORTH,

Appellant.

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Appeal from the Iowa District Court for Bremer County,
Stephen P. Carroll, Judge.

Appellant appeals the decision of the district court
granting appellee visitation with appellant's daughter and
son pursuant to Iowa Code section 598.35. **AFFIRMED.**

Gary J. Boveia of Boveia Law Office, Waverly, for
appellant.

Frances L. Gohlke of Carney & Gohlke, Waverly, for
appellee.

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

PER CURIAM

Appellant, Janet Orth, appeals the decision of the district court granting appellee, Joanne Orth, visitation with appellant's daughter, Sarah, age eight, and son, Joshua, age two, pursuant to Iowa Code section 598.35. We affirm.

Sarah and Joshua are the children of Charles and Janet Orth. Charles and Janet are divorced and Janet was awarded their physical custody. The appellee, Joanne, is the paternal grandmother of the children.

In April of 1986, Joanne moved to Texas with her future husband, Gordon Carolus. Joanne's sudden departure and the subsequent dissolution of her long-standing marriage resulted in her being ostracized from the family by her children. She was denied meaningful visitation with her grandchildren.

On September 16, 1987, Joanne filed her petition for grandparent visitation. The trial court, after a hearing held October 27, 1988, granted Joanne unsupervised visitation with the children four times a year. Janet has appealed from that ruling.

Our review in this equity action is de novo. Iowa R. App. P. 4. We give weight to the factual findings of the trial court, especially when considering the credibility of witnesses, but are not bound by them. Iowa R. App. P. 14(f)(7).

Iowa Code section 598.35, which governs grandparent visitation, provides in pertinent part:

The grandparents of a child may petition the district court for grandchild visitation rights when any of the following circumstances occur:

* * *

1. The parents of the child are divorced.

* * *

A petition for grandchild visitation rights shall be granted only upon a finding that the visitation is in the best interests of the child and the grandparent had established a substantial relationship with the child prior to the filing of the petition.

Janet does not contest the appropriateness of visitation, only the circumstances under which it shall transpire. She claims the trial court erred in permitting unsupervised, as opposed to supervised, visitation. Upon our review of the record, we conclude that unsupervised visitation is entirely appropriate.

Janet asserts that Joanne is too unstable and irresponsible to have unsupervised visitation with the children. Joanne, however, took care of Sarah for approximately six weeks in 1985 and again at the time of Joshua's birth. Her family deemed her unstable only after she filed for dissolution of marriage and left Iowa with her future husband. It was this event which forms the basis for Janet's accusations.

The trial court found Joanne simply made a decision to terminate a bad marriage and that the evidence did not

support Janet's accusations that Joanne is either unstable or impulsive. We agree with the trial court's findings on this point.

It is true that of late Joanne has spent little time with the children. However, Janet, purportedly under Charles's orders, has excluded Joanne from the children's lives. We believe, considering the familial tensions which currently exist, that unsupervised visitation will more aptly foster the grandparent-grandchild relationship by allowing visitation to occur in a neutral setting. The decision of the trial court is affirmed.

AFFIRMED.