FILED
AUG 26 1987
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF CONNIE LEE LANSINK AND RANDY MICHAEL LANSINK

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Upon the Petition of)

CONNIE LEE LANSINK,)

Petitioner-Appellee/ Cross-Appellant,)

And Concerning)

RANDY MICHAEL LANSINK,)

Respondent-Appellant/ Cross-Appellee.)

Filed August 26, 1987

7-148
86-1514

Appeal from the Iowa District Court for Crawford County (No. 1157), Dewie J. Gaul, Judge.

Respondent husband appeals and petitioner wife cross-appeals from the trial court's custody determination in this action pursuant to the Uniform Child Custody Jurisdiction Act, Iowa Code chapter 598A. **AFFIRMED AS MODIFIED.**

Thomas R. Eller of Nash, Eller & Brink, Denison, for respondent-appellant/ cross-appellee.

Reed H. Reitz of Reimer, Lohman & Reitz, Denison, for petitioner-appellee/cross-appellant.

Heard by Donielson, P.J., and Snell and Hayden, JJ.

DONIELSON, P.J.

Respondent husband appeals from the decree dissolving the parties' marriage. He asserts (1) that the trial court should have awarded sole custody of the parties' minor child to him, rather than petitioner wife, and (2) that his child support obligation is excessive. Petitioner wife cross-appeals and asserts that respondent husband's summer visitation is excessive. She also requests attorney fees on appeal. We modify the trial court's decree.

Petitioner Connie Lee Lansink and respondent Randy Michael Lansink were married in 1977. They both are age 28. Two children were born from the marriage: Christy, born in 1978, and Stephanie, born in 1982. Christy drowned when she was four years old. Because Randy's employment with Iowa Beef Processors required frequent transfers, the parties have lived at various places during the marriage. The parties separated in 1985 when they were living in the State of Washington. Connie and Stephanie moved back to Iowa without objection by Randy, where they have since lived with Connie's parents, Connie's younger brother, and an acquaintance with whom Connie had a relationship. Connie and Stephanie currently reside in a house in Denison. Randy continues to live in Washington with a woman whom he intends to marry. His base salary is $28,000 a year. Connie has had various jobs, which included waitressing and helping in restaurant kitchens. At the time of trial she did not have any full-time employment.

A dissolution action was commenced in Washington. The Iowa District Court assumed jurisdiction of the custody issues under the Uniform Child Custody Jurisdiction Act, Iowa Code § 598A (1985). Iowa jurisdiction of the custody issues is not contested.

In its decree, the trial court (1) awarded Connie sole custody of Stephanie, (2) directed Randy to pay child support of $400 per month, and (3) allowed Randy

visitation of every other weekend and every other weekday night (when he is in Iowa), a week at Christmastime, and six weeks in the summer. Randy has appealed and Connie has cross-appealed from the decree.

Our scope of review is de novo. Iowa R. App. P. 4. We give weight to the trial court's findings of fact, especially when considering the credibility of witnesses, but we are not bound by them. Iowa R. App. P. 14(f)(7).

We first address Randy's concern that the trial court erred in not placing the permanent custody of Stephanie with her father. There are no hard and fast rules governing custody issues. In re Marriage of Vrban, 359 N.W.2d 420, 423 (Iowa 1984). However, the paramount consideration in determining child custody cases is the best interests of the child. In re Marriage of Weidner, 338 N.W.2d 351, 356 (Iowa 1983). The general principles applicable to child custody issues are set out in In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974), and Iowa Code section 598.41(3) (1985). Among these factors are the capacity and interest of each parent to provide for the needs of the child and the stability and wholesomeness of each proposed environment. In re Marriage of Grandinetti, 342 N.W.2d 876, 879 (Iowa App. 1983). The ultimate question is which parent could minister most effectively to the long-range best interests of the child. In re Marriage of Sparks, 323 N.W.2d 264, 266 (Iowa App. 1982).

The record in this case reveals that Connie has had sporadic moves, living in four different homes within the past one and one-half years, subjecting Stephanie to the turmoil of constantly adjusting to a new living environment. Connie, during depressed stages in her life, talked of suicide. She appears from the record to be a very jealous person. At one time she felt her husband was having an affair (although there is no evidence of such an affair) and wanted to kill the woman with whom she felt he was having an affair. Connie appears to be a possessive person who did not want to trust Randy with Stephanie, thereby

causing difficulty for Randy to visit Stephanie. Connie has been shown to have neglected Stephanie's safety by failing to properly supervise her. The trial court did not find Connie's talks of suicide and murder threats to be serious. While it is true that the trial court could observe Connie's demeanor on the witness stand, we think that the fact she admitted to these incidents is serious enough to give them consideration in determining her stability. The trial court found that "there was considerable evidence in regard to past attentiveness or lack of attentiveness to Stephanie" on the part of Connie, although such evidence was again disregarded by the trial court in its determination of custody. The trial court further found that there was evidence of a discourteous attitude on Connie's part in favoring Stephanie over other children. The trial court found that there was evidence that Connie "had been less than encouraging in furthering the child's opportunities for maximum continuing contact with its father." Despite these numerous findings by the trial court, custody was awarded to Connie.

The record reveals that Randy has a good stable job wherein he has advanced to a position of plant manager of a department at Iowa Beef Processors. He maintains a comfortable home in Washington. He has demonstrated his ability to care for Stephanie when he cared for her after his workday while Connie would be working in the evenings. Randy did not see Stephanie for almost a year after she moved to Iowa. However, this appears to be due to the distance involved between Washington and Iowa, Randy's inability to take vacation during the winter holidays, and Connie's lack of cooperation in allowing visitation when Randy was in the area for a business meeting. Randy currently lives with a woman in Washington whom he plans to marry. Her relationship with Stephanie is good.

Based on the foregoing evidence, we find Randy to be the more mature and responsible parent who will best minister to Stephanie's long-term interests by being able to provide stability to her life. We therefore reverse the trial court's decision with regard to the custody provision and award sole custody of Stephanie to her father. Consequently, we need not address the excessive child support issue raised by Randy.

Connie shall be allowed visitation with Stephanie six weeks in the summer, to be agreed upon between the parties. She shall also be awarded one week at Christmastime, each year alternating the week to include Christmas Day.

Connie requests attorney fees on appeal. Attorney fees are not recoverable in a dissolution as a matter of right but rest within the sound discretion of the court In re Marriage of Estlund, 344 N.W.2d 276, 281 (Iowa App. 1983). We hold that Connie will pay her own attorney fees on appeal.

AFFIRMED AS MODIFIED.