

AUG 27 1946

CLERK SUPREME COURT

IN RE THE MARRIAGE OF CONNIE MAE HENKELMAN
AND STEPHEN MICHAEL HENKELMAN

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$$\frac{6-280}{86-105}$$

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

SACKETT, J.

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Petitioner Connie Mae Henkelman appeals from the trial court's order dissolving her marriage to Respondent Stephen Michael Henkelman. She challenges the trial court's order granting Stephen physical custody of the parties' children and fixing visitation. She asserts the order requiring her to pay child support is inequitable and contends the trial court should not have allowed Stephen and the children to remain in the marital residence. We affirm the custody, visitation and support provisions and modify the property award.

Connie and Stephen were married in 1973. Connie is employed as a housekeeper with the University of Iowa and she has a monthly net income of \$780. Stephen is employed by the Oakdale Classification Center and has a monthly net income of \$1,050. The marital residence is valued at \$60,000, but is encumbered by a mortgage of \$20,264. At the time of trial Connie was 31 years old and Stephen was 35. Connie and Stephen have two sons, ages 8 and 3.

Our review is de novo. Iowa R. App. P. 4. We accord weight to the trial court's finding of fact because the trial court has had the unique opportunity to hear and observe the witness firsthand but we are not bound by them. In re Marriage of Vrban, 359 N.W.2d 420, 423 (Iowa 1984).

CUSTODY AND VISITATION

The trial court found Stephen became the primary caretaker of the home and children in early 1985 and continued as such up until the time of trial in November, 1985. A psychologist who evaluated Stephen, Connie, and their children, recommended to the trial court that Stephen be the children's primary custodian.

The trial court awarded the parties joint custody but gave Stephen primary physical custody during the school year. Connie was granted primary physical

custody during the three summer months. The court's decree limited the noncustodial parent to visitation every other weekend and certain designated holidays.

Connie contends she should have been granted physical custody and or more liberal visitation. A recitation of each party's strengths and weaknesses would serve no useful purpose. The ultimate question is which parent can minister more effectively to the long-range best interests of the children. In re Marriage of Ellerbroek, 377 N.W.2d 257, 258 (Iowa App. 1985).

While recognizing Stephen and Connie are both good parents and commending them for their interest and concern for the children, we determine, as did the trial court, that the children's best interests will be served by making Stephen their physical custodian. Furthermore, we determine the visitation award made by the trial court allows each party ample contact with the children.

CHILD SUPPORT

The trial court ordered the parent not having custody to pay support of \$125 per month per child to the parent then having custody. Connie contends the child support award is inequitable.

Both parents have an obligation to support their children not necessarily equally but proportionately according to their ability and circumstances. In re Marriage of Byall, 353 N.W.2d 103, 108 (Iowa App. 1984).

We determine the record supports the award made by the trial court and affirm the child support award.

FAMILY RESIDENCE

Finally, Connie contends the trial court erred in establishing her equity in the family residence at 50 percent but not making it payable until such time as the home is sold, Stephen remarries or dies or the younger child graduates from high school, whichever event occurs first. Because of pending litigation

with the parties' next door neighbors, the real estate probably is currently not marketable. Both parties did, however, value the home at \$60,000. It had an encumbrance of \$20,264.

We affirm the trial court's order allowing Stephen and the children to continue to reside in the family home. See Iowa Code §598.21(1)(g) (1985). We do, however, modify the award to provide Stephen shall pay Connie interest on \$20,000 at the rate of 10 percent per annum payable annually from the date of the decree until such time as he shall cease occupying the house.

Stephen requests attorney fees on appeal. His request is denied. Costs on appeal are taxed one-half to each party.

AFFIRMED AS MODIFIED.