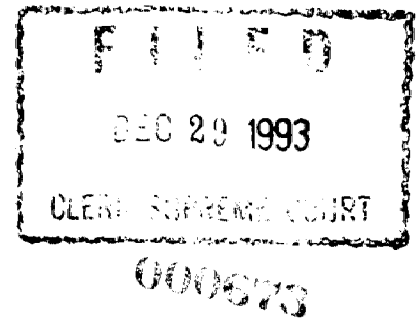


IN THE COURT OF APPEALS OF IOWA

No. 3-626 / 93-934



IN RE THE MARRIAGE OF TRINA LYNN WUNSCHER AND
ALBERT EDWARD WUNSCHER

Upon the Petition of
TRINA LYNN WUNSCHER,

Appellant,

And Concerning
ALBERT EDWARD WUNSCHER,

Appellee.

Appeal from the Iowa District Court for Sac County,
Ronald H. Schechtma, Judge.

Trina appeals from the child custody and support provisions of the dissolution decree, contending she has been the children's primary caretaker and should have been awarded physical custody. **AFFIRMED.**

Hugh J. Perry of Perry Law Office, Storm Lake, for appellant.

James R. Van Dyke of Van Dyke & Werden, P.C., Carroll, for appellee.

Heard by Oxberger, C.J., Habhab, J., and McCartney, S.J.*

*Senior judge from the 2nd Judicial District serving on this court by order of the Iowa Supreme Court.

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OXBERGER, C.J.

Trina and Albert Wunschel were married on February 14, 1986. Two children were born of Trina and Albert's marriage: Devin, born April 22, 1987, and Kylie, born November 7, 1989. Albert has two children from a previous marriage, ages eight and ten. Visitation between Albert and these two children has been sporadic.

Trina filed a petition for dissolution on January 12, 1993. The matter came on for hearing on April 21, 1993. Trina presented evidence that: she has worked several jobs during the parties' marriage and changes in jobs were to accommodate her need to care for her children; both Trina and Albert are good parents, but Trina has been the children's primary caretaker; she is currently working part-time, with flexible hours; she resides in a home in Storm Lake, which is near the children's day care center and schools; and she is undergoing counseling to address some of the issues of growing up in a broken home.

Albert presented evidence that: he has a stable work history; he has been involved in parenting Devin and Kylie; he lives in a home in Early where the children have spent the majority of their lives; Trina's relatives believe he is a good father; the children ignore Trina's attempts at discipline, but they listen to him; and he hopes to have his four children get to know each other.

The parties were awarded joint custody of the children. Albert was awarded primary care. Trina was ordered to pay \$40 per month in child support.

Trina now appeals.

The sole issue on appeal is whether the district court correctly awarded the physical care of the parties two children to Albert.

Our review in this matter is de novo. Iowa R. App. P. 4. In child custody cases, the best interests of the child is the first and governing consideration. The factors the court considers in awarding custody are enumerated in Iowa Code section 598.41(3), in In re Marriage of Weidner, 338 N.W.2d 351, 355-56 (Iowa 1983), and in In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974). All factors bear on the "first and governing consideration," the court's determination of what will be in the long-term best interests of the child. In re Marriage of Vrban, 359 N.W.2d 420, 424 (Iowa 1984). The critical issue in determining the best interests of the child is which parent will do 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).

Evidence presented at trial indicated both Albert and Trina deeply love their children and want to provide for their physical care. However, in our de novo review, we find the evidence supports placement of the children's physical care with Albert. Witnesses testified to Albert's

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ability to provide a safe, well-kept, nurturing home environment. He has tended to their meals, hygiene and other personal needs in a more than satisfactory fashion in the past year. Evidence regarding Trina indicates some degree of instability and distraction. We conclude the district court was correct in awarding physical care of the children to Albert.

AFFIRMED.