IN THE COURT OF APPEALS OF IOWA

FILED
MAY 25 1982
CLERK SUPREME COURT

IN RE MARRIAGE OF RONALD LIBERMAN & MARY LIBERMAN

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Upon the Petition of	)	
RONALD LIBERMAN,	)	
Petitioner-Appellant,	)	Filed May 25, 1982
And Concerning	)	
MARY LIBERMAN,	)	2-165 3-67084
Respondent-Appellee.	)	

Appeal from Deleware District Court - Peter Van Metre, Judge.

Petitioner appeals from child custody provisions of decree dissolving his marriage asserting 1) the custody of the parties' minor son should have been awarded to him or, in the alternative, 2) that this case should be remanded for further evidence because the record is inadequate for **de novo** review. - AFFIRMED.

James L. Chipokas, of Chipokas Law Offices, Cedar Rapids, for petitioner-appellant.

David S. Kelsen, Waterloo, for respondent-appellee.

Submitted to Oxberger, C.J., and Donielson and Johnson, JJ.

Petitioner-husband, Ronald Liberman, appeals from the child custody provisions of the decree dissolving his marriage to respondent-mother, Mary Liberman. He asserts: 1) that the custody of the parties' minor son should have been awarded to him or, in the alternative, 2) that this case should be remanded for further evidence because the record is inadequate for **de novo** review. We affirm.

The parties were married on November 29, 1975. Their only surviving child, Jason, was born January 12, 1978. A sibling, born February 24, 1981, after the parties' separation, died in infancy. Trial court awarded custody of Jason to respondent, subject to reasonable visitation by petitioner.

I. Scope of Review. Our review is **de novo.** Iowa R. App. P. 4. We are not bound by the trial court's findings of fact, but we give weight to them, especially with regard to credibility of witnesses. Iowa R. App. P. 14(f)(7). Our first and governing consideration in determining custody is the best interests of the child involved. Iowa R. App. P. 14(f)(15). In deciding custody, we seek neither to punish one parent nor reward the other. In re Marriage of Bare, 203 N.W.2d 551, 554 (Iowa 1973). There is no inference favoring one parent over the other in deciding which is the more fit custodian; the decision turns on the particular facts of the case. In re Marriage of Bowen, 219 N.W.2d 683, 688 (Iowa 1974). Factors relevant to custody determination are listed in In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974); the ultimate determination which we must make is, based on the entire record, which of the two parents can minister more effectively to the long-range best interests of the child. Id.

II. Custody. Petitioner contends that the best interests of the minor child require that custody be placed with him. He specifically focuses on respondent's alleged threats to take the life of both herself and the child, respondent's lack of a plan for the child's future environment, and her questionable reliability and

stability. On the other hand, petitioner maintains that he has demonstrated his capabilities to effectively minister to the child's needs, has planned a stable familiar environment for the future, has taken an active role in the child's upbringing, and is the more emotionally stable and capable parent.

Focusing upon petitioner's attributes, the record reflects that petitioner has had participation in the child's life through play activities, and sharing of parental responsibilities. Petitioner's testimony also indicates that he intends to continue to live with his sister, who has been and would be the child's babysitter. Petitioner also points to respondent's mental instability, her lack of discipline of Jason, her inability to effectively cope and respond to the crisis presented by their other child's death, and her unclear future employment plans.

On the other hand, the record contains evidence that petitioner took the child from respondent's care without her consent or informing her of the child's whereabouts. Petitioner took several out-of-state trips without including respondent or his child, and without providing for any support in his absence, leaving respondent to be responsible for the care and support of the family. The record also indicates petitioner was responsible for having the utilities to the parties' home shut off on more than one occasion. There is also testimony to indicate that petitioner, in other ways, attempted to evade responsibility. We also find that the record reveals respondent's difficulties to be more temporary in nature, as a response to a stressful situation. We further believe that the record indicates respondent intends to remain in the family home and has returned to her prior employment which she had temporarily left due to the birth of the parties' second child.

In conclusion, under the record presented, we agree with trial court's conclusion that respondent will more effectively minister to the long-range best interests of Jason. Accordingly, we affirm trial court's award of custody to

respondent.

III. Inadequacy of the record. While we agree with petitioner 's assertion that the record is not as complete as the court may desire, we believe that sufficient evidence was introduced at trial to permit that court, as well as this one, to resolve the issue of custody under the Winter standards. We, therefore, will not remand this case to the trial court for additional evidence. Trial court's judgment is affirmed.

AFFIRMED.