

IN THE COURT OF APPEALS OF IOWA

FILED

SEP 6 1984

CLERK SUPREME COURT

IN RE THE CUSTODY OF
JENNIFER NICOLE HASTON;

FRANK E. JESTER,

Petitioner-Appellee,

vs.

DEANNA K. HASTON,

Respondent-Appellant.

Filed September 6, 1984

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4-272
84-110

Appeal from the Iowa District Court for Woodbury County - Phillip S.
Dandos, Judge.

Respondent appeals from a trial court order awarding the petitioner custody
of the parties' child. AFFIRMED.

Valli J. Williams of Gleysteen, Harper, Eidsmoe & Redmond, Sioux City,
Iowa, for respondent-appellant.

Debra Y. Lulf of Shuminsky, Shuminsky & Molstad, Sioux City, Iowa, for
petitioner-appellee.

Considered by Snell, P.J., Hayden, and Sackett, JJ.

PER CURIAM

The respondent, Deanna Haston, appeals from a trial court order awarding the petitioner, Frank Jester, custody of the parties' child, Jennifer. Haston charges that the trial court erred in finding that the best interests of Jennifer would be served by placing her with Jester.

Haston and Jester met and began living together in California in 1979. At that time they were each married to other people. In 1982 the parties moved to Iowa and on July 16, Jennifer was born. Thereafter, Frank worked and Deanna stayed home to look after Jennifer.

In late April of 1983, Deanna took Jennifer to visit her relatives in Indiana. She did not return, and in early June Frank went to get her. Deanna informed Frank that she had found someone new and did not intend to return. She did allow Frank to take Jennifer to see his mother in Illinois. The testimony was conflicting on who was to make arrangements for returning Jennifer to her mother. Deanna testified that Frank was to contact her and failed to, while Frank claimed it was Deanna's responsibility to contact him. Ultimately, Frank returned to Iowa with Jennifer. Since that time, Deanna has remained in Indiana and Frank has had sole care and custody of Jennifer.

Our review is de novo. Although we are not bound by the trial court's findings, we give them weight. In re Marriage of Bowen, 219 N.W.2d 683, 687-88 (1974). We review the trial court's order in light of the factors enumerated in In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974), bearing on the determination as to which parent will better provide for the child's needs. As always, the paramount consideration in any custody dispute is the long-term best interests of the child. Iowa R. App. P. 14(f)(15); In re Marriage of Sparks, 323 N.W.2d 264, 266 (Iowa Ct. App. 1982); Schoonover v. Schoonover, 228 N.W.2d 31, 34 (Iowa 1975).

While both parties have their share of problems, the record does show that

the trial court was correct in awarding custody to the father. Much testimony was given about the drinking habits of both parties. Frank admits that he is an alcoholic and, with the exception of one incident, has not drank for the last year. He testified that the one time that he drank during this one year period taught him that he is not strong enough to overcome his problem alone. He is currently attending Alcoholics Anonymous and is receiving counseling from his minister. Deanna, on the other hand, stoutly proclaims that she doesn't now and never has had a drinking problem. She claims that she has only an "occasional" drink—two or three every couple of weeks and that she has stopped drinking completely since the temporary order granting Frank custody. However, the testimony of friends as well as a psychological report of Deanna indicate that she would be considered more than an occasional drinker. The testimony indicated that she drank regularly when she was living with Frank, often to the point of intoxication. In addition, a psychological evaluation done by the Center for Mental Health of Madison County, Indiana, indicates that she does have a drinking problem which she refuses to recognize. While she never harmed or neglected Jennifer during these periodic drinking bouts, it does appear that Deanna has an immature approach to the responsibilities of motherhood.

Deanna's history of relationships with men also indicates an overall instability and immaturity. She was married to another man at the time she met Frank. Her relationship with Frank lasted a little less than three years. Since she moved away from Frank, Deanna has married another man, Barry Clouse. While Deanna claims that she has entered a mature and stable relationship, her record would indicate this to be a premature assumption.

While the situation that Frank offers is not ideal, his maturity and emotional stability indicate that he can provide a more solid environment for Jennifer. Frank works evenings and is free during the day to care for Jennifer. At nights the sister of a sister-in-law watches Jennifer. Outside of the one-month period

when Deanna had Jennifer in Indiana, Jennifer's home has been in Iowa with Frank. Since the time that he and Deanna separated, Frank has had the sole responsibility for the care and custody of Jennifer. Frank has demonstrated that he can more than adequately care for Jennifer. He provides her with nutritional, well-balanced meals, a clean home, and most importantly, love and attention. His relatives in the area provide additional support to this stable environment that he has created.

In close cases such as this, we give greater weight to the findings of the trial court. The trial judge had the opportunity to view the parties and to assess their credibility.

The findings of the trial court are affirmed.

AFFIRMED.