FILED
JUN 24 1980 278
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF DOUGLAS ALLEN SCHROEDER
AND CINDY LU SCHROEDER

Upon the Petition of)
DOUGLAS ALLEN SCHROEDER,) Filed June 24, 1980
Petitioner-Appellee,)
and Concerning)
CINDY LU SCHROEDER,) 0-117
3-63575
Respondent-Appellant.)

Appeal from Clinton District Court - C. H. Pelton, Judge.

Respondent appeals child custody and support provisions of dissolution decree. AFFIRMED.

G. Wylie Pillers, III of Pillers, Pillers & Pillers, Clinton, for respondent-appellant.

William B. Norton and Donald B. Clark of Norton, Freese & Zearley, Lowden, for petitioner-appellee.

Heard by Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

Respondent, Cindy Lu Schroeder, appeals child custody and support provisions of dissolution decree. On appeal, Cindy contends trial court should have awarded custody of the parties' daughter to her, should have appointed an attorney or investigatory agency to represent the child, and entered an excessive child support award. Cindy also appeals the overruling of her various post-trial motions including her motion to reopen and take additional testimony regarding her ability to care for the child. We affirm.

Our review is de novo. Iowa R. App. P. 4. Although we are not bound by the trial court fact-findings we give them weight, particularly concerning the credibility of witnesses. Iowa R. App. P. 14(f)(7).

I.

Douglas and Cindy were married on June 5, 1976. They have one child, Dana, who was born on October 5, 1976. On September 22, 1978, Douglas filed a petition for dissolution of their marriage and applied for temporary custody of Dana. On September 22, 1978, Cindy filed an application for temporary custody and answered on October 5, 1979. After a temporary custody hearing was held October 4, 1978, the court awarded temporary custody of Dana to Douglas subject to visitation by Cindy, ordered Cindy to pay temporary child support of $20 per week, and ordered Douglas to pay $150 to Cindy as temporary attorney fees.

At the final hearing held February 27, 1979, the parties stipulated to admission of the testimony from the temporary custody hearing. Neither party requested appointment of an attorney or independent investigator to represent the child. After the hearing, the court found the relevant custody factors tipped slightly in favor of Douglas, granted him custody, and ordered Cindy to pay child support of $16 per week.

On April 10, 1979, Cindy filed combined motions to set aside the judgment, to reopen and take additional testimony, for a new trial, and to vacate and modify the decree. Cindy wished to introduce additional testimony concerning the improvement since the temporary custody hearing in her character, stability, and ability to care for Dana. The trial court overruled Cindy's motions.

II.

No hard and fast rule governs which parent should have custody; it is not a matter of reward or punishment. In re Marriage of Bowen, 219 N.W.2d 683, 687-88 (Iowa 1974).

Factors to be considered in deciding who should have custody are listed in In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974). The issue is ultimately decided by determining under the whole record which parent can minister more effectively to the long-range best interests of the children. Id; Iowa R. App. P. 14(f)(15). Each case turns on its own peculiar facts. Boyes v. Boyes, 247 N.W.2d 265, 267 (Iowa 1976); In re Marriage of Peterson, 227 N.W.2d 139, 141 (Iowa 1975).

With these principles in mind, we review briefly the evidence. Both parents love their child and would provide adequate care for her. During the summer and fall of 1978, Cindy occasionally left her husband and daughter for several days at a time before returning. Both Douglas and Cindy now live with their parents. Apparently, they plan to continue to do so for the near future, although Douglas mentioned his desire to rent their former home. Each party has investigated and arranged adequate care for the child. Considering this and the other evidence in the record, we conclude custody should be awarded to Douglas. Like the trial court, we find this a close and difficult decision. Oftentimes, however, determining what custodial arrangement will best serve the long-range interest of a child becomes a matter of selecting the least detrimental available alternative for safeguarding the child's growth and development. Winter, 223 N.W.2d at 167. Here, placing custody of Dana with Douglas appears to be the least detrimental alternative. See generally In re Marriage of Sherwood, 240 N.W.2d 669, 670 (Iowa 1976).

We find no merit in Cindy's contention the trial court abused its discretion in refusing to appoint an attorney or independent investigatory agency to represent Dana, as empowered to do so by section 598.12, The Code 1979. The provisions of this section are directory only and not mandatory. Boyes, 247 N.W.2d at 268; see In re Marriage of Teepe, 271 N.W.2d 740, 744 (Iowa 1978). Initially, we note Cindy did not request such an appointment until after the decree was filed. More importantly, Cindy failed to establish how the appointment of a representative for the child would benefit this determination of custody. The hearing on this matter was a full, detailed, and fair examination of the parties' parenting abilities; any information developed through the means suggested by Cindy would likely be only cumulative. At this time appointment of a representative would certainly not be in the best interests of the child whose custody should be quickly fixed. See Winter, 223 N.W.2d at 166.

III.

The trial court's support order is justified under these circumstances. Each parent bears a legal as well as moral duty to support his or her children. In re Marriage of Zoellner, 219 N.W.2d 517, 524-25 (Iowa 1974). Factors considered in the determination of a support award are essentially an attempt to match equitably the ability of each parent to pay support with the needs of the child. Id. The circumstances of this case show Cindy is able to pay $16 per week for Dana's support and this award is neither overly generous nor unduly burdensome.

IV.

We find the trial court did not abuse its discretion in overruling Cindy's various post-trial motions including her motion to reopen and take additional testimony regarding the change since the temporary custody hearing in her character, stability, or ability to care for Dana. Cindy asserts the trial court lacked information regarding the change in her circumstances since the time of the temporary custody hearing. We find both parties had ample opportunity to present their cases and brought to the trial court's attention Cindy's current improved status. The court even found Cindy had "now gotten herself straightened around and is back living with her parents." Cindy failed to show how reopening the trial would have reasonably produced a different result or anything other than cumulative evidence. The trial court correctly overruled Cindy's various post-trial motions. Thomas Truck and Casting Co. v. Buffalo Caster and Wheel Corp., 210 N.W.2d 532, 536 (Iowa 1973); Vanden Berg v. Wolfe, 196 N.W.2d 420, 422 (Iowa 1972).

We affirm the trial court.

AFFIRMED.