FILED
SEP 27 1983
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF WILMA L. PORTER AND ROBERT J. PORTER

Upon the Petition of)
WILMA L. PORTER,)
Petitioner-Appellant,) Filed September 27, 1983
And Concerning)
ROBERT J. PORTER,) 3-257 / 83-302
Respondent-Appellee.)

Appeal from Des Moines District Court - D. B. Hendrickson, Judge.

Petitioner wife appeals from the trial court's order awarding physical care of the parties' child to respondent husband in this case in which a joint custody arrangement had already been established. AFFIRMED.

Gerald D. Goddard and James W. Miller of Cray, Walter, Cray, Loeschen & Goddard, Burlington, for petitioner-appellant.

Gene R. Krekel of Hirsch, Link, Adams, Hoth & Krekel, Burlington, for respondent-appellee.

Considered by Oxberger, C.J., and Donielson, Snell, Schlegel and Hayden, JJ. Sackett, J., takes no part.

DONIELSON, J.

Petitioner wife appeals from the trial court's order awarding physical care of the parties' child to respondent husband in this case in which a joint custody arrangement had already been established. Petitioner claims she is better able to minister to the child's best interests. Our review is de novo. Iowa R. App. P. 4. We affirm.

Robert and Wilma Porter were married in 1972. Julie, their only child, was born in 1979. Robert is a state trooper in Burlington while Wilma is a court reporter; she recently accepted a new position in Des Moines. The parties reached an agreement on all issues in the dissolution except which one was to have physical care of Julie in their joint custody arrangement. The trial court therefore entered a dissolution decree incorporating the agreement and reserving the physical care issue for later determination.

After trial on the issue, the court found that (1) Wilma had not fully recovered from the depression she had suffered for the previous three years; (2) Robert's family background made him better able than Wilma to cope with the pressures of day-to-day living and of raising Julie; (3) Julie responded more to Robert's discipline than to Wilma's; (4) Wilma emphasized the importance of a career more than Robert; and (5) if Wilma were awarded physical care, Julie would be moving to unfamiliar surroundings in Des Moines. Based on these findings, the trial court awarded physical care to Robert with liberal visitation rights to Wilma. She has appealed.

The concept of joint legal custody, first considered by the supreme court at length in In re Marriage of Burham, 283 N.W.2d 269 (Iowa 1979), was recently codified. 1982 Iowa Acts ch. 1250. Under the new statutory definition of "joint custody," the court is authorized to award physical care of the child to one parent only. Iowa Code § 598.1(4) (1983). "Physical care" is defined in § 598.1(5) as "the

right and responsibility to maintain the principal home of the minor child and provide for the routine care of the child." These new provisions regarding physical care in a joint custody arrangement were recently discussed by the supreme court in In re Marriage of Bolin, 336 N.W.2d 441, 447 (1983). That case indicates that an award of physical care should be based upon the same factors as employed in determining an award of child custody. See In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974). We have applied those factors in this case.

After reviewing the entire record, we agree with the trial court that Robert should have physical care of Julie. Both parties love their daughter very much and are fully capable of meeting her material needs. Like the trial court, we are hopeful that Wilma's depression is a thing of the past; however, we cannot ignore the fact that she is still on medication--an indication that she perhaps has not yet fully recovered. Nor can we ignore the fact that Wilma's depression resulted in significant part from her problems in handling and relating to Julie. We are also mindful that an award to Wilma would result in uprooting Julie from her familiar surroundings in Burlington in order to move to Des Moines. Finally, Robert's work schedule should pose no new problems. He has indicated that he intends to use the same day care center Julie has already been staying at and certain individual babysitters, none of whom Wilma objects to.

We agree with the trial court that Robert is better able to minister to Julie's long-range best interests. Iowa R. App. P. 14(f)(15). We therefore affirm the court's award of physical care to Robert.

AFFIRMED.