FILED
AUG 31 1978
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF SHELLY ALYSON DEVANEY and RICHARD DALE DEVANEY, JR.

Upon the Petition of	)	
SHELLY ALYSON DEVANEY,	)	Filed August 31, 1978
Appellee,	)	
And Concerning	)	
RICHARD DALE DEVANEY, JR.,	)	607
Appellant.	)	3-61338

Appeal from Johnson District Court - Clinton E. Shaeffer, Judge.

Husband appeals from child custody provision of dissolution decree. Affirmed.

Bruce L. Walker, of Iowa City, for appellant.

William F. Sueppel, of Iowa City, for appellee.

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

PER CURIAM

Respondent, Richard Dale Devaney, Jr., appeals from the provision of a marriage dissolution decree which awarded to petitioner, Shelly Alyson Devaney, the custody of their minor child, Richard. Our review is de novo.

The issue is whether the award of custody is in the best interests of the child. Rule 14(f)(15), Rules of Appellate Procedure. The principles applicable to resolving custody are summarized in In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974). While we accord weight to trial court's findings of fact because the trial judge heard and observed the witnesses first-hand, we are not bound by them. Rule 14 (f)(7), R. App. P.; In re Marriage of Snyder, 241 N.W.2d 733 (Iowa 1976); In re Marriage of Callahan, 214 N.W.2d 133, 136 (Iowa 1974).

From our examination of the record we find that both Shelly and Richard love their child, both have demonstrated concern for the child's care and needs, and that each is fit to be the custodial parent. We are satisfied, however, trial court did not err in awarding custody of Richard to Shelly. Although the evidence is close and without a compelling preponderance in favor of Shelly, the record supports the difficult choice trial court was required to make.

Costs on appeal are assessed to Richard and, in addition, he shall pay the sum of $1000 to apply upon Shelly's attorney fees on this appeal.

AFFIRMED.