FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE MARRIAGE OF ROBIN R. WARREN AND GENE B. WARREN

Upon the Petition of)
ROBIN R. WARREN,)
Petitioner-Appellant,)
And Concerning)
GENE B. WARREN,)
Respondent-Appellee.)

404

8-313
87-1636

Appeal from the Iowa District Court for Jasper County (DD9-171), Peter Keller, Judge.

Petitioner appeals from the provision of a dissolution decree awarding physical custody of the parties' four minor children to respondent. **AFFIRMED.**

Elizabeth Kruidenier and Alfredo Parrish of Parrish & Krudenier, Des Moines, for the petitioner-appellant.

Jerry R. Foxhoven of Foxhoven & McCann, Des Moines, for respondent-appellee.

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

HAYDEN, J. 495

Robin Warren appeals from the provision of a dissolution decree awarding physical custody of the parties' four minor children to the father, claiming the best interests of the children mandate an awarding of physical custody to her. For the reasons set out below, we affirm the decision of the district court.

I.

Robin and Gene Warren were married in August of 1975. They have four minor children: Jessica Marie, born January 25, 1980; Allyson Rene, born March 21, 1982; and twin sons, Jonathon Michael and Christopher Matthew, born August 14, 1983.

Gene is a veterinarian in Baxter, Iowa, where the family resided, while Robin is a teacher in the Des Moines school system. During the marriage there were numerous occurrences of physical violence between the parties. Some of these instances, coupled with shouting and swearing, occurred in the presence of the children. The problem apparently became so acute Gene sought out counseling and read self-help books to help him deal more effectively with his problems.

It is clear from the evidence both parents love the children very much and their children love them, thus the district court granted joint legal custody. The trial court placed physical custody in Gene. Robin appeals this provision.

496

II.

The sole issue here is Robin's assertion that the best interests of the children require awarding physical custody to her. She would like to move with the children to Des Moines, where she urges her working hours as a teacher would allow her to spend after-school hours and summers with the children. She also notes Gene's past episodes of physical violence as a reason for not awarding him custody.

In response Gene asserts the trial court properly awarded him physical custody. Gene cites four primary arguments in support of the trial court's holding. First, he states the incidents of physical aggression between the parties were mutual and were sometimes initiated by Robin. Second, he has shown more maturity and good judgment in his dealings with the children than has Robin. Third, he has for years assumed the role of the children's primary caretaker. And finally, continuing to live in Baxter with him would likely contribute more to the children's stability than moving with Robin to Des Moines.

Our scope of review is de novo in dissolution proceedings. Iowa R. App. P. 4. While we give weight to the fact findings of the trial court, especially considering the credibility of witnesses, we are not bound by them. Iowa R. App. P. 14(f)(7).

III.

The controlling consideration in determining custody is the best interests of the child. Iowa R. App. P. 14(f)(15); In re Marriage of Ullerich, 367 N.W.2d 297, 299 (Iowa App. 1985). As with all child custody determinations, precedent is of little value, and therefore our decision must ultimately depend on the particular facts in each case. In re Marriage of Vrban, 359 N.W.2d 420, 423 (Iowa 1984). Our determination of custody is most clearly directed by determining which parent can minister more effectively to the long-range best interests of the children. Marriage of Winter, 223 N.W.2d 165, 166 (Iowa 1974). The factors we look to in making this determination are set forth in Iowa Code section 598.41(3) (1987). In addition to those factors listed in the statute, other legal principles governing custody determinations are relevant here. We note that stability is important for children and should be maintained if reasonably possible. In re Marriage of Carrico, 284 N.W.2d 251, 254 (Iowa 1979). In addition, we must take into consideration which parent would encourage the most contact between the noncustodial parent and the children. Matallo v. Musengo, 353 N.W.2d 872, 875 (Iowa App. 1984).

Our review of the record indicates both parents are caring, loving, and capable. However, after examining the record in light of the principles set out above, we agree

with the district court and conclude the children's best interests will more adequately be served if Gene is given physical custody.

The trial court had an opportunity to view the demeanor of the parties and determine through this observation Gene demonstrates greater maturity and better judgment than does Robin. As we have stated, the findings of the trial court will be afforded some weight, especially those concerning the credibility of the witnesses but of course, we are not bound by them. Iowa R. App. P. 14(f)(7); In re Marriage of Vrban, 359 N.W.2d at 423. Here, the court's findings, coupled with evidence in the record that Robin has used poor judgment in making decisions regarding the children in the past, as well as a different approach to solving the children's problems, indicate the children's best interests would be better served with Gene. Evidence also indicated Gene has played a major role as the primary care taker of the children, due primarily to Robin's employment situation, and Gene's hours are more flexible and he can more easily attend to the childrens' day-to-day needs. In addition, the record indicates the children have lived their entire lives in Baxter. They have friends and have been well accepted in the community. We believe the stability of the children would be better served if they remain with their father in Baxter.

Finally, we do not believe Gene's past physical aggressions are a deterrent. The record indicates Gene sought out counseling to help with his problem. His counselor, Reverend Jerry Stevenson, became acquainted with both Gene and Robin and indicated during a deposition he believed Gene could better serve the interests of the children. Also, it is not entirely clear from this record that Gene was the sole aggressor in these physical confrontations; in fact, the district court was "convinced" the aggressions were mutual on the part of both parties.

We find no reason to disturb the trial court's custody decision. We determine the long-range best interests of the children will be served by giving physical custody to Gene.

AFFIRMED.