IN THE COURT OF APPEALS OF IOWA

No. 6-419 / 95-2044

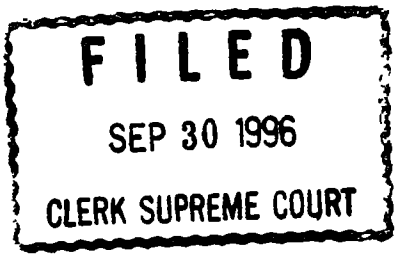
JACK E. LaGRANGE, JR.,

Petitioner-Appellant,

vs.

PAMELA LYNN IRMEN,

Respondent-Appellee.



Appeal from the Iowa District Court for Scott County, John A. Nahra, Judge.

Jack LaGrange, Jr., appeals the district court's ruling awarding Pamela Irmen primary physical care of the parties' minor child. **AFFIRMED.**

Michael T. Hines of McCarthy & Lammers, Davenport, for appellant.

Robert P. Swanson of Huntoon, Nowinski & Swanson, Ltd., Moline, Illinois, for appellee.

Heard by Sackett, C.J., and Huitink and Streit, JJ.

SACKETT, C.J.

The question in this appeal from an order establishing primary care of a child of unmarried parents is whether the trial court made the correct decision in awarding primary care of Jonathon, born in February 1994, to his mother, respondent-appellee Pamela Lynn Irmen. Petitioner-appellant father, Jack LaGrange, Jr., contends he, not Pamela, should have been granted primary physical care. We affirm.

Jack and Pamela separated when Jonathon was approximately seven months old. Pamela has two children, Ben and Melissa, from a previous marriage. Ben and Melissa are in Pamela's primary physical care.

In September 1994, Jack filed a petition to establish paternity and for child custody. The court entered a mutual protective order, placed temporary custody of Jonathon with Pamela, and granted Jack visitation. Prior to a hearing on the petition, an order establishing paternity was entered.

At the time of the hearing on the petition, Pamela was twenty-eight years of age, Jack was twenty-four, and Ben and Melissa were nine and seven. Jonathon was eighteen months. Pamela worked part-time and was enrolled as a full-time student at St. Ambrose University. Jack was living with his girlfriend and her two-year-old son. Jack worked at Linwood Stone Mining Minerals.

The trial court in its findings noted Pamela had left Ben and Melissa home alone. Additionally, there was disputed evidence Pamela inappropriately struck a

friend's child, and Pamela gave testimony. The trial court also noted Jack lost a job as a bouncer because he used force, and he had failed for eleven months to contribute to Jonathon's support.

The trial court, in awarding physical care of Jonathon to Pamela, found evidence Jonathon was attached to his half-siblings, Ben and Melissa, then ages seven and nine. The trial court found this tipped the scale in favor of placing Jonathon with Pamela.

Jack argues the evidence established he should have physical care of Jonathon. He further contends the trial court put too much weight on the relationship between Jonathon and his half-siblings.

The factors the court considers in awarding custody are enumerated in Iowa Code section 598.41(3). *In re Marriage of Weidner*, 338 N.W.2d 351, 355-56 (Iowa 1983), and *In re Marriage of Winter*, 223 N.W.2d 165, 166-67 (Iowa 1974). The critical issue in determining the best interests of the child is which parent will do better in raising the child; gender is irrelevant and neither parent should have a greater burden than the other in attempting to gain custody in a dissolution proceeding. *In re Marriage of Ullerich*, 367 N.W.2d 297, 299 (Iowa App. 1985).

There is a strong interest in keeping children of broken homes together. *In re Marriage of Jones*, 309 N.W.2d 457, 461 (Iowa 1981). These same principles apply when half-siblings are involved. *In re Marriage of Orte*, 389 N.W.2d 373, 374 (Iowa 1986).

We recognize Jack and Pamela both love Jonathon and will give him adequate care. We find no reason to depart from the finding of the trial court.

Pamela has requested attorney fees on appeal. We award her $2000.

AFFIRMED.