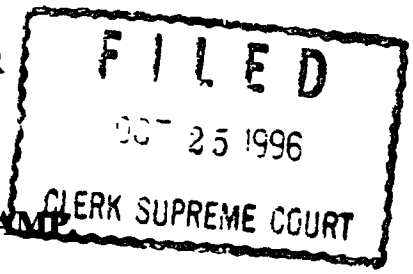
IN THE COURT OF APPEALS OF IOWA

No. 6-424 / 95-2212



IN RE THE MARRIAGE OF SANDRA A. BROOKOVER AND JOHN K. BROOKOVER

Upon the Petition of
SANDRA A. BROOKOVER n/k/a SANDRA A. BEAUCHAMP,

Appellant,

And Concerning
JOHN K. BROOKOVER,

Appellee.

Appeal from the Iowa District Court for Dubuque County, William G. Klotzbach, Judge.

Sandra Beauchamp appeals from the custody provisions of the parties' dissolution decree. **AFFIRMED.**

Paula M. Stenlund of Reynolds & Kenline, L.L.P., Dubuque, for appellant.

Robert E. Sabers, Dubuque, for appellee.

Heard by Habhab, P.J., Cady, and Vogel, JJ.

CADY, J.

Sandra Brookover appeals from the custody provision of a dissolution decree On our de novo review, we affirm.

Sandra and John Brookover were married in 1988 in Evansville, Indiana. They had one child, John Brookover, Jr. He was born July 12, 1991, and is known as Little John. Sandra subsequently had another child, Carissa Marie Beauchamp, born November 5, 1993. Carissa is not John's child and not subject to the dissolution proceedings. At the time of the trial, Sandra was living in Dubuque. John continued to reside in Evansville, Indiana.

At various times throughout the marriage, John and Sandra exhibited behavior which did not contribute to a healthy environment for raising a child. Sandra and John were separated at the time Little John was born. She resided in a shelter due to John's drinking and abusive behavior. John is an alcoholic. He drank heavily during the marriage, but quit drinking early in 1993. Sandra suffers from schizophrenia. Her illness has led to behavior which at times has placed her children at risk.

After Little John's birth, Sandra moved from Evansville. She returned for short periods of time during which she and John made several unsuccessful attempts to reconcile. She took Little John with her during these moves.

From December of 1991, until April or May of 1992, Sandra lived with Little John in Prairie du Chien, Wisconsin. Little John was the subject of juvenile court

proceedings while in Wisconsin and he spent several months in foster care. Sandra was exposed to parenting services.

Sandra and her children were also involved with juvenile court authorities in Dubuque in January of 1994, after Sandra experienced an acute psychotic episode. During this episode, she was delusional and left her children unattended in her apartment with a pan of food cooking on the stove. The children, who were not harmed, were removed from Sandra's care and placed in temporary foster care. A week after the children were returned to Sandra, they were removed at Sandra's request because she was concerned she could not properly care for them.

Sandra attempted suicide in May of 1994. She voluntarily entered a care facility, where she resided until December of 1994. The care facility discharged her with mental health support services and she moved into an apartment. The children remained in foster care during this time.

Sandra received intense and varied services to help ensure her stability after leaving the facility. She has cooperated with services and has made progress. She continues to work on her impulsive decision-making, and to maintain control of her illness. Carissa was returned to her care in late April of 1995. The juvenile court recommend Little John not be returned to her care. It felt Sandra needed to focus on one child.

In December 1994, the juvenile court ordered Little John placed in John's care, with extensive services. John was cooperative with services. His service providers

in Indiana reported he followed through with substance abuse, anger management/control, and parenting skills services. They also report Little John appears healthy and happy.

The juvenile court entered an order granting the district court concurrent jurisdiction to decide issues of custody. Sandra's dissolution petition proceeded to trial. The district court found that both parties had a long history of problems, both were working on them, and both were willing to comply with assistance. Sandra and John were awarded joint legal custody of Little John, with primary care being placed with John.

Sandra appeals. She contends the district court erred in awarding primary care to John. She argues she was the child's primary care giver, and John had a history of domestic abuse. She also points out the decree separates siblings.

The scope of review of a dissolution proceeding is de novo. Iowa Code § 598.3; Iowa R. App. P. 4. We are not bound by the district court's findings of fact but give them deference based on its opportunity to view, firsthand, the demeanor of the witnesses when testifying. *In re Marriage of Brown*, 487 N.W.2d 331, 332 (Iowa 1992).

Our first and governing consideration in child custody cases is the best interests of the child. *In re Marriage of Wilson*, 532 N.W.2d 493, 495 (Iowa App. 1995). The factors to consider in awarding custody are found in our statutes as well as prior cases. *Id.* These factors primarily consider the long-term best interest of the

child through an examination of which parent will in the future provide an environment where the child will most likely thrive. *Id.; In re Marriage of Engler*, 503 N.W.2d 623, 625 (Iowa App. 1993).

Sandra contends the trial court did not fully consider that she was Little John's primary care giver. She points out she cared for Little John without John's assistance for long periods of time.

The role of primary care taker of the children during the marriage does not ensure the court will designate that parent as the primary caretaker at the time of the divorce. *Wilson*, 532 N.W.2d at 495. The role of primary caretaker is, however, critical in the development of children, and careful consideration should be given in custody disputes to permitting children to remain with the parent who has been the primary care giver so as to enable the children to have continuity in their lives. *In re Marriage of Fennell*, 485 N.W.2d 863 (Iowa App. 1992).

Although Sandra primarily cared for Little John, during certain periods of time during the marriage in each instance where she did have primary care, the juvenile court or department of human services ultimately intervened to protect Little John from harm. Little John was in foster care several times, including most of 1994. Thus, the continuity normally associated with the deference given to a primary caretaker is not present in this case.

Sandra next contends John abused her during the marriage. The evidence, however, shows John, like Sandra, has made a significant turnaround in his life. He

has participated in substance abuse counseling, anger management/control counseling, and parenting services. Service providers in Indiana worked with and observed both John and Little John after John was given custody of Little John in December of 1994. They observed Little John appeared happy and healthy. There have been no reports indicating John has become verbally or physically abusive around Little John. Sandra made one unsubstantiated allegation during the trial that John yelled at Little John when she was speaking with him on the telephone.

Finally, Sandra contends the trial court failed to recognize the importance of keeping siblings together. She argues it is in both Little John and Carissa's best interests to continue to remain in the same household.

There is a presumption siblings should not be separated. *In re Marriage of Will*, 489 N.W.2d 394, 398 (Iowa 1992). The separation of siblings is generally opposed because it deprives children of the benefit of constant association with one another. *Id.* There is a strong interest in keeping children of broken homes together. *Yarolem v. Ledford*, 529 N.W.2d 297, 298 (Iowa App. 1994). Courts may depart from the rule, however, if the circumstances demonstrate separation may better promote the long-term interests of the children. *Id.* These same principles apply when half siblings are involved. *In re Marriage of Orte*, 389 N.W.2d 373, 374 (Iowa 1986).

In the present case, the facts demonstrate the separation of Little John and Carissa may better promote the long-term interests of the children. Both Sandra and

John have overcome significant behavioral problems. They face relapse each day. However, Sandra demonstrates a continuing need for outside services to assist her in functioning without interruptions from her illness in her day-to-day life. There was evidence that returning Little John to Sandra while she also cares for Carissa would likely cause her too much stress. Sandra's own expert testified stress is a factor which significantly contributes to a relapse. The placement of Little John and Carissa together under Sandra's care, given the present facts, would substantially increase the stress on Sandra and increase the likelihood she will relapse and engage in behavior harmful to both children.

We acknowledge this a close decision considering the previous problems experienced by John and Sandra. Both parties have made great strides. Yet, under the circumstances, we find John is better able to provide care to Little John. Furthermore, we give careful consideration to the findings of the trial court. *Wilson*, 244 N.W.2d at 496 (citing *In re Marriage of McDowell*, 244 N.W.2d 238, 239 (Iowa 1976)).

We have carefully considered all issues raised in the briefs. We affirm the decision of the trial court giving primary physical care of Little John to John.

AFFIRMED.