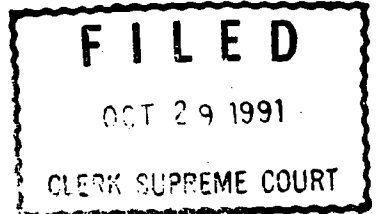


IN THE COURT OF APPEALS OF IOWA

No. 1-310 / 90-1645



IN RE THE MARRIAGE OF RONNIE GENE SKARIN
AND CYNTHIA SUE SKARIN

Upon the Petition of

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RONNIE GENE SKARIN,

Appellee,

And Concerning

CYNTHIA SUE SKARIN,

Appellant.

Appeal from the Iowa District Court for Crawford
County, Gary E. Wenell, Judge.

Mother appeals custody provisions of a dissolution
decree. **AFFIRMED.**

Thomas R. Eller of Eller, Brink & Sextro, Denison, for
appellant.

Thomas R. Mohrhauser, Mapleton, for appellee.

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

SCHLEGEL, P.J.

Ronnie and Cynthia Skarin were married on August 11, 1984. They have two children: Rocky, born October 27, 1984, and Reanna, born July 28, 1987. Ronnie graduated from high school and worked as a plant worker. Cynthia attended school until the ninth grade and during the parties' marriage was primarily a homemaker. Both parties had substance abuse problems, and Cynthia was the victim of Ronnie's violent domestic abuse.

The district court dissolved their marriage on October 22, 1990. The parties had separated following one of Ronnie's episodes of domestic abuse, and the children were living with Ronnie's parents. Ronnie continued to work as a sheet metal worker, and Cynthia received public assistance. The district court awarded primary physical care of the parties' two children to Ronnie, reasoning that he had a more stable environment. Cynthia had developed a relationship with another man whom the trial court believed may also be violent and abusive. The court set Cynthia's child support obligation at \$480 per month and granted her visitation rights.

The district court also divided the parties' debts and assets, awarded neither party alimony, and directed the parties to pay their respective attorney fees. On appeal Cynthia focuses her challenge on the trial court's award of custody.

Our review is de novo. Iowa R. App. P. 4. In child custody cases, the best interests of the child is the first and governing consideration. 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, 356 (Iowa 1983), and In re Marriage of Winter, 223 N.W.2d 165, 166-67 (Iowa 1974). All factors bear on what will be in the long-term best interests of the child. In re Marriage of Vrban, 359 N.W.2d 420, 424 (Iowa 1984). 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).

The involvement of both parties in the use of various controlled substances presents a very serious issue. The trial court noted: "The use of controlled substances played a part in the violence between the parties. The Petitioner contends that the violence occurred only after such use and the Respondent contends that her use was as an escape from the Petitioner's physical abuse." In the fall of 1989 Ronnie began treatment for his chemical dependency problem at Manning General Hospital. He has completed the program successfully and is presently involved in numerous aftercare meetings and programs.

Psychological testing of Cynthia showed her problems were not those normally associated with alcoholism or addiction, but rather her use of alcohol and drugs was a response to the domestic abuse she had received. She was recommended treatment to deal with this problem. Cynthia has not started treatment. She states in her brief that she has not begun the program because she is under stress due to the dissolution action. The record shows that since the parties' dissolution she has had at least one OWI conviction.

The trial court awarded Ronnie custody of the two children. It based its decision on several reasons, including Ronnie's greater stability:

The Petitioner's continuity of employment during these times, as well as his continuance in aftercare participation and involvement with his family, is contrasted with the Respondent's somewhat carefree lifestyle seemingly centered around a 'biker bar and its patrons' in Council Bluffs. Such circumstances suggest greater stability on the part of the Petitioner at this time.

We agree that Ronnie is able to provide the most stable home for the children at this time and that he, therefore, should have custody of the two children. In re Marriage of Carrico, 284 N.W.2d 251, 254 (Iowa 1979) (important rule in custody determinations is that children need a stable environment). We are most impressed by the fact that Ronnie has completed treatment and continues in aftercare. Cynthia has taken no such action to help herself. See In re Marriage of Brogden, 344 N.W.2d 271, 273 (Iowa App. 1983).

Ronnie's past violent activity is of substantial concern to us. We are also troubled by Ronnie's brief which repeatedly refers to Cynthia's propensity to select abusive partners. We agree that this selection would have a negative effect on the children, but such heavy reliance on this issue by Ronnie fails to realize that he was the batterer; Cynthia should not be blamed for his actions. The evidence does suggest, however, that Cynthia will continue in abusive situations absent any counseling. We urge Cynthia to begin treatment.

While activities of the past are somewhat predictive of the future, present intervening factors and corrective or rehabilitative steps are also important. We believe it is in the best interests of the children that their future care be with Ronnie. By the present record he can best administer to their needs. We affirm the trial court's award of custody to Ronnie.

AFFIRMED.