IN THE COURT OF APPEALS OF IOWA

FILED
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CLERK SUPREME COURT

No. 0-571 / 98-1784
Filed December 13, 2000

IN RE THE MARRIAGE OF IRENE T. BALM AND ROGER BALM

Upon the Petition of
IRENE T. BALM,
Appellant,

And Concerning
ROGER BALM,
Appellee.

Appeal from the Iowa District Court for Webster County, William C. Ostlund, Judge.

Irene Balm appeals the decree dissolving her marriage to Roger Balm.

AFFIRMED.

Irene T. Balm, Chapel Hill, North Carolina, appellant, pro se.

Bruce Cornell of Bruce Cornell Law Office, Fort Dodge, for appellee.

Considered by Streit, P.J., and Vogel and Miller, JJ.

VOGEL, J.

Irene Balm appeals the decree dissolving her marriage to Roger Balm. We find the trial court did not abuse its discretion in denying her motion for a continuance and we affirm.

Background facts. Irene and Roger Balm were married on August 26, 1989, and four children were born to the parties. Irene filed a petition for dissolution of the marriage on March 31, 1998. Irene moved to a new address in North Carolina on June 29, 1998. Trial was set for August 27, 1998, but Irene claims she did not receive notice of the trial date by her attorney. Prior to trial, Irene's attorney moved the court to continue the trial to allow him further opportunity to locate and communicate with Irene. The trial court denied the motion and the trial proceeded. The court dissolved the marriage and granted sole custody of the minor children to Roger, with supervised visitation to Irene. Both custody and visitation were subject to a juvenile court order dated June 10, 1998, giving custody of the children to Roger's mother, Sharon Balm, until further action of the juvenile court. Irene was ordered to pay child support.

Scope of review. We review a motion for continuance under an abuse of discretion standard and will only reverse if injustice will result to the party desiring the continuance. *In Interest of C.W.*, 554 N.W.2d 279, 281 (Iowa App. 1996). Denial of a motion to continue must be unreasonable under the circumstances before we will reverse. *Michael v. Harrison County Rural Elec. Coop.*, 292 N.W.2d 417, 419 (Iowa 1980) (citing *State v. Cott,* 283 N.W.2d 324, 329 (Iowa 1979)).

Motion to continue. While Irene appeals the entry of the decree of dissolution, in reality, she attempts to argue the lack of propriety of the trial court to proceed with the trial rather than granting her the continuance sought through her attorney. We review for an abuse of discretion. *Weigel v. Weigel,* 467 N.W.2d 277, 279 (Iowa 1991).

At this point, Irene seeks to introduce new evidence to support her position that she was unaware of the trial date, including telephone bills purporting to document calls to her attorney in the months immediately prior to the trial and two affidavits regarding Irene's attorney's claims to have attempted contacting her. This information was not presented to the trial court and, thus, did not bear on the court's decision to deny the motion to continue. It is not part of the record and, therefore, we cannot consider it on appeal. *See* Iowa R. App. P. 10(a); *see also In re Marriage of Keith,* 513 N.W.2d 769, 771 (Iowa App. 1994).

On our review of the trial court's ruling, we find the court considered not only Irene's attorney's statements of his attempts to maintain contact with her but also was made aware of Irene's absence from a juvenile court hearing on July 2, 1998. The court found, and we agree, that the burden was on Irene to follow the activity of her petition for dissolution. We find no abuse of the trial court's discretion in denying the motion for continuance. Accordingly, we affirm.

AFFIRMED.