FILED
MAY 26 1994
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 4-160 / 93-1055

IN RE THE MARRIAGE OF PAM LEA ANDERSON AND JON JEFFREY ANDERSON

Upon the Petition of
PAM LEA ANDERSON,

Appellee,

And Concerning
JON JEFFREY ANDERSON,

Appellant.

Appeal from the Iowa District Court for Pottawattamie County, Leo Connolly, Judge.

Jon appeals various provisions of the decree dissolving the parties' marriage. **AFFIRMED IN PART, MODIFIED IN PART, AND REMANDED.**

Stephen C. Ebke and A. W. Tauke of Porter & Tauke, Council Bluffs, for appellant.

Kellie Ray Taylor of Perkins, Sacks, Hannan, Reilly & Peterson, Council Bluffs, for appellee.

Heard by Donielson, C.J., and Hayden and Habhab, JJ.

HAYDEN, J.

Jon and Pam Anderson were married on January 29, 1985. Prior to their marriage, the two lived together for approximately five years. Their son, Jon Jr., was born June 18, 1986. Jon has worked at Cresline Plastic throughout the relationship. Pam has worked or gone to school throughout the relationship. After the birth of Jon Jr., Pam worked days and went to school, and Jon worked afternoons or nights: this schedule allowed one or the other to be with Jon Jr. most of the day. When neither parent was available, Jon Jr. stayed with one of his grandmothers.

Jon and Pam separated on June 1, 1992. During the separation Jon Jr. spent half the week with each parent until he began first grade. At that point, Jon Jr. stayed with Pam during the week and spent every weekend with Jon.

Pam filed a petition for dissolution on September 1, 1992. Following a hearing the district court entered a decree of dissolution on April 30, 1993. Pam was awarded physical custody of Jon Jr., a $4500 cash property settlement, the parties' refrigerator and stove, and a portion of Jon's accumulated pension benefits. The district court ordered Jon Sr. to pay child support of $325 per month and to maintain Jon Jr. as the beneficiary of his unencumbered life insurance policy until Jon Jr. reached age twenty-six. Jon was awarded the family home.

Jon appeals. He contends he is the more appropriate custodial parent so as not to change Jon Jr.'s schedule and lifestyle. He also complains in refusing to continue with split custody Pam has sought to restrict his time with Jon Jr. Jon next contends the district court improperly included overtime pay in its calculation of Jon's income. He argues his child support obligation should be set at $283 per month. Finally, Jon contends the property division was inequitable. Pam seeks an award of appellate attorney fees.

Our review in cases such as these is de novo. Iowa R. App. P. 4. We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses. Iowa R. App. P. 14(f)(7). We are not bound by these determinations, however. Id. Prior cases have little precedential value, and we must base our decision primarily on the particular circumstances of the parties presently before us. In re Marriage of Weidner, 338 N.W.2d 351, 356 (Iowa 1983).

John first contends the trial court erred in placing physical custody of Jon Jr. with Pam. When both parents are shown by the evidence to be fit and proper persons to have custody, the court must decide in whose custody the long-range best interests of the child will be better served. In re Marriage of Weidner, 338 N.W.2d 351, 359 (Iowa 1983). The trial court was in the best position to review all of the evidence with regard to which parent

should maintain physical custody of Jon Jr. Our review of the evidence provides us with no reason to disturb the physical custody as determined by the trial court. The placement of Jon Jr. in the physical custody of his mother Pam is affirmed.

In his second issue on appeal, Jon Sr. contends the court erred in its order of child support and further erred in directing Jon Sr. to keep Jon Jr. as beneficiary of his life policy until Jon Jr. reaches the age of twenty-six. The court ordered Jon to pay $325 per month in child support. However, this figure deviates slightly from the figure provided under the child support guidelines. Based upon the net income figures provided by both parties, the computation provides Jon should be paying child support in the amount of $283 per month. The decree is modified accordingly.

With regard to the life insurance policy, the evidence indicates Jon Sr. is to maintain Jon Jr. as beneficiary on the Ameritus Life Policy until he reaches the age of twenty-six. We determine this order to be unreasonable. It is our determination Jon Sr. should only be required to maintain Jon Jr. as beneficiary for the period of time he is paying child support. The decree is modified on this issue.

Jon Sr. next argues the property settlement is inequitable. We find the value placed on the assets by the trial court to be well within the permissible range of

evidence and will not disturb them on appeal. See In re Marriage of Bare, 203 N.W.2d 551, 554 (Iowa 1973); In re Marriage of Griffin, 356 N.W.2d 606, 608 (Iowa App. 1984). A thorough review of the evidence reveals an equitable distribution of property between the parties. We affirm the trial court's order with regard to property.

In his final issue on appeal Jon Sr. argues the trial court erred in distribution of his retirement and incentive savings plan. Jon Sr. particularly disagrees with the court's awarding Pam a portion of his pension plan for the time in which they lived together in addition to the time the couple was married. The evidence indicates both parties contributed to the parties assets and debts during the time of cohabitation and marriage. The court's order using the total time of cohabitation is both fair and equitable and will not be disturbed on appeal.

This case is modified and remanded for entry of judgment in accordance with this opinion. We do not retain jurisdiction. Costs on appeal are taxed one-half to each party.

AFFIRMED IN PART, MODIFIED IN PART, AND REMANDED.