

**IN THE COURT OF APPEALS OF IOWA**

No. 1-283 / 10-1746  
Filed May 25, 2011

**JOSEPH BUTTERCASE,**  
Petitioner-Appellant,

**vs.**

**SAMANTHA PECK,**  
Respondent-Appellee.

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Appeal from the Iowa District Court for Montgomery County, J.C. Irvin,  
Judge.

Joseph Buttercase appeals from the district court's decree establishing  
paternity, custody, visitation, and support. **AFFIRMED.**

DeShawne L. Bird-Sell of Sell Law, P.L.C., Glenwood, for appellant.

Drew H. Kouris, Council Bluffs, for appellee.

Considered by Eisenhauer, P.J., and Potterfield and Tabor, JJ.

**POTTERFIELD, J.**

This is an appeal by Joseph Buttercase challenging the district court's award of physical care of the parties' daughter, M.P., born July 2008, to Samantha Peck; the order that visitation be supervised for three months to allow the child to become acquainted with Buttercase; the order to pay child support based on Buttercase's earning capacity; and the award of attorney fees to Peck.

Because we agree with the district court's reasoning, its conclusions under the facts presented, and its application of the law, we affirm the rulings of the district court. It is in the child's best interests to be placed in the physical care of her mother, who has been her primary care giver, and with her half-sibling. The order of three months supervised visitation to introduce the two-year-old child to her father, whom she has not seen for more than a year, is not unreasonable.<sup>1</sup> We agree with the district court that Buttercase is not credible on the issue of his finances and that if child support were to be based on Buttercase's alleged actual earnings substantial injustice would occur. See Iowa Ct. R. 9.11(4). Further, we find no abuse of discretion in the district court's award of attorney fees to Peck. See Iowa Code § 600B.25 (2009); *Markey v. Carney*, 705 N.W.2d 13, 25–26 (Iowa 2005). On our de novo review, we affirm pursuant to Iowa Court Rule 21.29(1)(a) and (e).

We award Peck \$1000 in appellate attorney fees. See *Markey*, 705 N.W.2d at 26 (noting award of appellate attorney fees is within appellate court's discretion).

**AFFIRMED.**

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<sup>1</sup> We note that Buttercase himself requested "phase-in" visitation.