

IN THE COURT OF APPEALS OF IOWA

No. 6-719 / 06-0285
Filed October 11, 2006

IN RE THE MARRIAGE OF KARLA C. CAVES AND KOREY A. CAVES

**Upon the Petition of
KARLA C. CAVES,**
Petitioner-Appellant,

**And Concerning
KOREY A. CAVES,**
Petitioner-Appellee.

Appeal from the Iowa District Court for Scott County, David H. Sivright,
Judge.

Karla Caves appeals from the decree dissolving her marriage to Korey
Caves. **AFFIRMED.**

Catherine Zamora Cartee and Jennie Clausen of Cartee & Clausen Law
Firm P.C., Davenport, for appellant.

Mary Lynn Wolfe of Wolfe Law Office, Clinton, for appellee.

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

EISENHAUER, J.

Karla Caves appeals from the decree dissolving her marriage to Korey Caves. She contends the district court erred in granting the parties joint physical care of their daughter. We review her claim de novo. Iowa R. App. P. 6.4.

Karla and Korey were married on May 24, 2003. They have one child, Katelyn, born in September 2002. They lived in Grand Mound until their separation, when Karla moved to Davenport. Korey has since moved to nearby DeWitt.

At the time of trial, Karla was employed at Olsen's Engineering, Inc., working 2:00 p.m. until 10:00 p.m., Monday through Friday. She planned to change shifts to work from 6:00 a.m. until 2:00 p.m. in the near future. Korey was employed at W.G. Block Company, working from between 6:00 a.m. and 7:30 a.m. until approximately 4:30 p.m., although he worked longer hours in summer when the weather was good. The parties' incomes are comparable.

Karla filed for dissolution on July 22, 2004. Following an August 2004 hearing, the district court granted the parties temporary joint physical care of Katelyn. Karla would care for Katelyn in the mornings while Korey worked. Korey then cared for Katelyn upon finishing his workday until returning her to Karla's care prior to the start of his workday in the morning. Karla's father and her father's live-in girlfriend or Korey's parents would provide childcare for Katelyn when both parties were at work. The parties alternated care of Katelyn on the weekends.

Trial was held in June 2005. The district court granted the parties joint legal and physical care of Katelyn, with the parties alternating her care on a

weekly basis. Karla appeals, arguing the district court erred in granting joint physical care of Katelyn because they cannot communicate effectively. She requests this court grant her physical care of Katelyn. Korey asks this court to affirm the district court or, in the alternative, grant him physical care of Katelyn.

The primary consideration in determining an award of child custody is the best interests of the child. Iowa R. App. P. 6.14(6)(o). The court's objective is to place a child in the environment most likely to bring him or her to healthy physical, mental, and social maturity. *In re Marriage of Murphy*, 592 N.W.2d 681, 683 (Iowa 1999). Although joint physical care was once strongly disfavored by the courts, the Iowa legislature has proclaimed it a viable disposition of a custody dispute. *In re Marriage of Swenka*, 576 N.W.2d 615, 616 (Iowa Ct. App. 1998). An award of joint physical care is appropriate where "such action would be in the best interest of the child and would preserve the relationship between each parent and child" Iowa Code § 598.41(5) (2003).

It is undisputed that both parties love Katelyn and are capable parents. Although problems arose with communication between the parties and with the exchange of the child for visits, generally, they successfully participated in a shared care arrangement for nearly a year leading to dissolution. What little evidence the parties offered regarding Katelyn's well-being suggests she has done fine in their shared care. Although there was tension between the parties, this is likely attributable to the stress of their pending divorce and the daily transfer of Katelyn. Although Karla seeks sole physical care, she testified she wanted Korey to see his daughter as much as possible. The evidence dealt only with the here and now and neither party offered plans for when this three-year-

old child reaches school age and beyond. No independent or expert evidence was offered concerning the best interest of Katelyn.

One of Karla's main complaints about Korey involves the exchange of the child for visits and the transfer of her clothing and accessories, which occurred daily. By allowing each party one week with Katelyn on an alternating basis, this court anticipates these difficulties will subside. As the district court ordered:

Each parent shall provide Katelyn basic furnishings at their home, and supply her basic material needs there, so that she is not moving all of her clothing, toys, and personal effects with her each week. However, special items of clothing, toys, or personal effects may be moved with her, if it is reasonably practical and in Katelyn's interests to do so.

Her other complaint of smoking around the child would continue to be an issue regardless of who has physical care. It can be resolved by enforcement of the prohibitions contained in the decree. The trial court concluded resolution of the dissolution action "will likely relieve most if not all the tensions now existing between the parties." We agree

We conclude the joint physical care arrangement set forth by the district court is in Katelyn's best interest at this time. This case illustrates the problems with failure to offer any evidence to assist a court to make a decision regarding long-term care arrangements for a young child. Accordingly, we affirm.

AFFIRMED.