

IN THE COURT OF APPEALS OF IOWA

No. 8-127 / 07-1085
Filed February 27, 2008

IN RE THE MARRIAGE OF HEATHER STRONG AND TONY STRONG

**Upon the Petition of
HEATHER STRONG,**
Petitioner-Appellant,

**And Concerning
TONY STRONG,**
Respondent-Appellee.

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

Mother appeals the provision in a dissolution of marriage decree ordering meetings by the parties and the children with a therapist for the purpose of a future determination of visitation. **AFFIRMED.**

Robert Deck, Sioux City, for appellant.

Shelley Goff, Ruston, Louisiana, for appellee.

Considered by Mahan, P.J., and Eisenhauer and Baker, JJ.

EISENHAUER, J.

Heather and Tony Strong had been married for four years on July 29, 2005, when Heather moved out with their two young children, Blessing and Journey. On August 24, 2005, a founded sex abuse report was made by the Department of Human Services concerning Tony and Blessing.¹ In September 2005, Heather filed for dissolution of marriage. By the time of hearing in March 2007, the children had not seen Tony for twenty months.

The evidence at hearing included reports from Dr. Baker, a psychologist, and Dr. Daniel, a psychiatrist. Dr. Baker personally interviewed both parties and the children while Dr. Daniel reviewed records and documents. Dr. Baker stated: "There is a lack of evidence . . . to indicate [Tony] would not have the capacity to function as a nurturing and appropriate father." Dr. Baker concluded: "Considering the importance of the children's development with opportunity for bonding with the father, this evaluator would need more opportunity for assessment. Combined therapeutic and/or supervised visits would yield a better determination."

In contrast, Dr. Daniel recommended Tony undergo several psychological tests before allowing therapeutic and/or supervised visits. Tony testified he is willing to take the recommended tests.

¹ A criminal case for second-degree sexual abuse was filed and later dismissed after statements Tony made to a police officer were suppressed.

In resolving this issue, on May 18, 2007, the court stated:

Starting in the month of June 2007, [the parties and their children] shall present themselves at the office of an experienced therapist . . . in Woodbury County, Iowa, at least once a month for six months. . . . It will be the therapist's decision as to the details of these therapeutic/supervised visits and whether visits should occur more frequently than once per month. . . . A hearing will be scheduled for December 12, 2007 . . . to receive reports and/or oral testimony as to the recommendations for future visitation with these children by [Tony].

[Tony] is not ordered to but is expected to present himself at the office of a qualified professional . . . who can administer . . . the various tests, interviews, etc., recommended in the affidavit of Dr. Daniel. Reports and results of those tests and procedures will also be admitted in the December 12, 2007 hearing.

The only issue Heather raises on appeal is whether therapeutic/supervised visitation should not occur until after Tony is tested.

We review this equity action de novo. Iowa R. App. P 6.4. We have a duty to examine the entire record and "adjudicate anew rights on the issues properly presented." *In re Marriage of Steenhoek*, 305 N.W.2d 448, 452 (Iowa 1981). We give weight to the trial court's fact findings, especially regarding witness credibility, but they are not binding. Iowa R. App. P. 6.14(6)(g).

Having considered all arguments advanced on appeal, we find the therapeutic/supervised visitation provisions and subsequent reporting to the court before additional visitation determinations are made to be appropriate. By ordering therapeutic visitation, the court has fairly balanced the interests of the children in a relationship with both parents while being mindful of the overriding safety interests. We affirm the district court's opinion in its entirety.

Heather also seeks an award of appellate attorney fees. An award of attorney fees is discretionary. *In re Marriage of Krone*, 530 N.W.2d 468, 472 (Iowa Ct. App. 1995). We decline to order Tony to pay a portion of Heather's appellate attorney fees. Costs are to be equally divided.

AFFIRMED.