

**IN THE COURT OF APPEALS OF IOWA**

No. 8-625 / 08-0186  
Filed October 1, 2008

**IN RE THE MARRIAGE OF TRACY R. VOORHEES  
AND RUSSELL C. VOORHEES**

**Upon the Petition of  
TRACY R. VOORHEES,**  
Petitioner-Appellant,

**And Concerning  
RUSSELL C. VOORHEES,**  
Respondent-Appellee.

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Appeal from the Iowa District Court for Linn County, Mitchell E. Turner,  
Judge.

A mother appeals the child custody provisions of a dissolution decree.

**AFFIRMED.**

Stephen Jackson of Jackson & Jackson, P.L.C., Cedar Rapids, for  
appellant.

Crystal Usher of Nazette, Marner, Wendt, Knoll & Usher, L.L.P., Cedar  
Rapids, for appellee.

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

**VOGEL, J.**

Tracy Voorhees appeals from the decree dissolving her marriage to Russell Voorhees. Tracy contends that the district court erred in granting the parties joint physical care of their two children. We affirm.

Tracy and Russell were married in September 1993. Their marriage resulted in two children, a son born in 1994 and a daughter born in 2000. In March 2006, Tracy filed a petition for dissolution of marriage. In a joint pretrial statement filed July 27, 2006, both parties indicated they agreed to “joint custody and physical care” of the children. However, as the case proceeded, both parties requested primary physical care. In November 2006, in an order on temporary matters, the district court granted Tracy physical care of the children and Russell visitation every other Friday afternoon to Tuesday morning and every other Monday afternoon to Wednesday morning.

Prior to the dissolution hearing, Tracy and Russell reached an agreement as to most matters, but did not agree as to physical care of the children. In August 2007, a two-day hearing was held, during which Tracy requested primary physical care of the children and Russell requested joint physical care. The district court entered a decree dissolving the parties’ marriage, and granted Tracy and Russell joint legal custody and joint physical care of the children.

Tracy appeals. She maintains joint physical care is not in the children’s best interests and that they would be better served if she had physical care. She asserts that she had been the children’s primary physical caretaker during the marriage and she and Russell cannot communicate effectively to support an award of joint physical care. Russell responds that joint physical care is in the

children's best interests and the evidence supports that determination as the parties have traditionally performed equal roles in raising the children and have been able to cooperate regarding the decisions affecting the children.

We review the provisions of a dissolution decree de novo. Iowa R. App. P. 6.4; *In re marriage of Hansen*, 733 N.W.2d 683, 690 (Iowa 2007). However, we recognize that the district court was able to listen to and observe the parties and witnesses. *In re Marriage of Zebecki*, 389 N.W.2d 396, 398 (Iowa 1986). Consequently, we give weight to the factual findings of the district court, especially when considering the credibility of witnesses, but are not bound by them. Iowa R. App. P. 6.14(6)(g). Our overriding consideration is the best interests of the children. Iowa R. App. P. 6.14(6)(o); *Hansen*, 733 N.W.2d at 695 (stating that in determining whether to award joint physical care or physical care with one parent, the best interests of the children remains the principal consideration).

Evidence introduced at trial demonstrated that both Tracy and Russell have been active parents in the lives of their children. The parties generally agree on their approach to day-to-day parenting and have historically been able to cooperate and work together in raising the children. However, both parties' personal lives have been complicated with new romantic relationships and the stress and changes brought on by the breakdown of the marriage. In addition both parties have serious health issues. The district court took all the relevant factors into account and addressed each parent's strengths and weaknesses in detail. Further, the district court found that "Tracy and Russell have effectively co-parented the children on approximately equal basis, utilizing similar parenting

styles and techniques with a minimum of disagreements.” We share the district court’s confidence that the parties will cooperate in the future and provide healthy and loving environments for the children.

We defer to the credibility assessments made by the district court and conclude the district court’s factual findings were fully supported by the record. Further, the district court’s ruling reflects it considered and weighed the appropriate factors in determining the physical care award. Iowa Code § 598.41(3) (2005); *Hansen*, 733 N.W.2d at 696-99; *In re Marriage of Winter*, 233 N.W.2d 165, 166-67 (Iowa 1974); see *Hansen*, 733 N.W.2d at 698 (holding that although Iowa Code section 598.41(3) does not directly apply to physical care decisions, “the factors listed [in this code section] as well as other facts and circumstances are relevant in determining whether joint physical care is in the best interest of the child”). Thus, we affirm the district court pursuant to Iowa Court Rules 21.29(1)(a) and (d).

**AFFIRMED.**