

**IN THE COURT OF APPEALS OF IOWA**

No. 1-455 / 10-1077  
Filed July 27, 2011

**IN RE THE MARRIAGE OF  
KIMBERLY S. BURT  
AND SHANE T. BURT**

**Upon the Petition of  
KIMBERLY S. BURT,**  
Petitioner-Appellee,

**And Concerning  
SHANE T. BURT,**  
Respondent-Appellant.

---

Appeal from the Iowa District Court for Kossuth County, Patrick M. Carr,  
Judge.

A husband appeals from a district court dissolution decree, contending that the court should have ordered joint physical care of the children to the parties. **AFFIRMED.**

T.J. Braunschweig, Algona, for appellant.

Patrick H. Payton, Des Moines, for appellee.

Considered by Vogel, P.J., and Vaitheswaran and Mullins, JJ.

**VAITHESWARAN, J.**

Shane and Kim Burt married in 2000 and divorced in 2010. Under the dissolution decree, Kim received physical care of the couple's two children, subject to visitation with Shane. On appeal, Shane contends the district court should have ordered joint physical care. See *In re Marriage of Hansen*, 733 N.W.2d 683, 697–99 (Iowa 2007) (setting forth non-exclusive factors to be considered in determining whether joint physical care is warranted). Our review is de novo. *Id.* at 690.

For two years, the couple operated under a temporary order that provided for joint physical care. That arrangement was not without its problems. As the district court found, the communication and respect between the parties was “dramatically impaired.” The court found that Shane encouraged the children to become involved in these communication difficulties, “suffered to permit disrespectful behavior from the girls to their mother,” and “effectively pressured them to take sides.” These findings are fully supported by the record.

Shane and several of his witnesses admitted that he called Kim demeaning names in front of the children. Indeed, Kim testified that the children came to view these names as normal and also began using them. Shane also admitted to making over 300 calls to Kim in a one-month period and hiding tape recorders in the home to monitor her conversations. He followed Kim, tracked the people who came and went from the home as well as her after-work activities, and made unfounded accusations about her personal life. Based on this evidence as well as evidence of physical abuse during the marriage, Kim's

therapist testified that Kim was “very much a victim of domestic violence” and Shane had “issues of power and control.”

This testimony was corroborated by the testimony of the children’s therapist, who stated:

In 20 years that I have been in this—in the social work field, this is probably the most significant case of parent alienation I’ve ever witnessed. . . . You know, and it’s constant. It has never ceased. And I—it has just been difficult to watch the impact it has had on these children.

On this record, we cannot find any basis for concluding joint physical care was in the children’s best interests. See *id.* at 695 (best interests of the children is the ultimate consideration).

Logistical difficulties also would have made joint physical care impractical. Shane lived in northwest Iowa. Kim expressed an intent to move from that area to Des Moines. Therefore, the every-other-day transfers that had been taking place would have proved unworkable.

We conclude the district court acted equitably in rejecting the joint physical care option. Shane does not alternately argue that he should have received physical care of the children. Accordingly, we need not address that issue. See *id.* at 700 (“Once it is decided that joint physical care is not in the best interest of the children, the court must next choose which caregiver should be awarded physical care.”).

Shane also raises issues regarding the non-production of documents and the division of medical insurance costs which he stipulated he would bear. We find these issues without merit.

**AFFIRMED.**